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LAWS AND RIGHTS OF WOMEN IN TEXAS



BY C. E. CARTER
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*(Lectures by Charles Carter before the Federated Clubs of
Marshall and Harrison County, April 26, 1914).*

SUBJECT

**"Political Science or the Laws Affecting the Rights, Privileges and
Property of Women."**

Mrs. President:

Ladies and Members of the Federated Clubs of Marshall and Harrison County.

I desire to thank your handsome President (1) for her kind introduction. When I received from her and Miss Lane, (2) several days ago, the invitation extended and the subject assigned, I immediately congratulated myself upon the fact, as it then appeared, that they had selected for me the easiest subject in the world.

I said to myself, I shall just tell the ladies all about the matter in a few minutes, telling them that they could make a study of President Wilson's Mexican Diplomacy, and that would be sufficient for an illustration of "Political Science" in active campaign, and then refer them to what "Portia" said and did in her legal battle before the Venetian Tribunals, in the "Merchant of Venice," as reported by Mr. Shakespeare, and that would be sufficient illustration, of the rights and privileges, as well as the Power of women.

However, I glanced at my subject again and it seemed to have grown just a little, while I was thinking, and that made me turn pale, for I had heard of a certain subject from Arkansas, a pumpkin vine, which grew from a tiny plant, at such a rapid pace, that it finally outran a horse going at full speed.

Being now alarmed, I looked at the subject again, and by that time it had filled my whole head, a task not very difficult you will readily say, and then it filled my whole heart and over-flowed; it then filled the whole room, and in an instant the whole city; it leaped over the "corporation" line, and like wild fire took to the "tall timber" in the country.

Like "chained" lightning it filled the whole of Harrison County, thirty miles square; it filled the great State of Texas; and I said, "What a wonderful question is this, that so rapidly fills such an Empire?"

Even as I thought, the subject loomed larger and larger; with the rapidity of thought, it swelled to the "Frigid" North; it swelled to the "Georgous" East; it swelled to the "Golden" West; it covered the United States of America, and the Dominion of Canada, and as I heard the restless tides of the angry Seas, I said, "Surely this growing question will be stayed by their proud waves," but, with "Seven Leagued Boots," it swelled across the Atlantic; it swelled across the Pacific; it traversed the "Occident;" it swept through the "Orient;" it surged from Pole to Pole.

In my despair, I then cried aloud, "Oh, where are the bounds of this wonderful question?" But no answer came back, except the echo of my own despairing cry, as the waves of crystal thought, surged upward, and on and onward, to break upon undiscovered and unknown shores."

The question now appears to me so complex that I should have requested further time for preparation; it reminds me of an incident related by Mr. Rollin, the Historian (3). He relates, that the King of Syracuse on a certain occasion, asked the Poet Simonides this question, "What is God?"

The Poet requested a day in which to return his answer; on the morrow when the King sent for the reply, the Poet requested two days more; that being granted the King again sent for the reply, and the Poet requested four days in which to answer, and as often thereafter as the King sent for the answer, as often doubled the time; the King however became impatient, with the delay and sent for the Poet to appear before him and explain, this remarkable conduct; whereupon the Poet appearing before the King, justified, says, that he was forced to ask for such time, because he said the more he contemplated the subject the "more obscure it seems."

However, I now think that Mrs. President and Miss Lane should have given me a real easy subject, such as, "What will become of the old Bachelor?" For I could tell you all about him in a few minutes, for we all know just what is going to happen to him.

The old Bachelor will sooner or later, come close up to the warm side of some sweet girl, wearing a "slit skirt," and whose ruby lips and rose cheeked face is a dream of love; there will then be heard a mighty sighing in the land, for it will be like pouring "acid" on cankered gold; the dross will be burned away in the twinkling of an eye, and the pure gold of love will be left; there will be a few "heart to heart" talks, and a few heart to heart walks, down by the shady dell, at twilight's holy hour, when the gold and purple of dying day are blending into shadows; there will be also heard a sound like the "squeak" of a new boot, and the next day Mrs. Emma Long (a) will issue a "Pair" of Marriage 'Licenses,' with the Great Seal, stamped on the "afore-said and the same;" and then the Pastor will be called in, and a little later, it shall be determined to have been an exemplification of the laws on marriage, where it reads, "and there shall be weeping and wailing and gnashing of teeth."

This same old bachelor will thereafter be always able to tell you in the most eloquent strains all about the "laws" affected "by women."

In my despair over the subject, I reached up and pulled down from the shelf the old History, and slapped the dust of years from its back. Opening it up, I said "Tell me about this question, if you please." As I read turning page after page, the subject became appalling, as the ebb and tide of the human race passed before my vision; it linked the glories of the past, and the world's crowning honors as well as its darkest tragedies with the history of woman, and said to me, "The History of woman and her laws, is the history of Civilization itself."

I said, "What a truth; what a stupendous thought." As I looked down through its musty pages, I saw the exemplification of this truth, and I saw that Woman is the living, loving chain, which binds us to the eternal past, and she is the golden clasp which binds us, as we stand, and look with silent awe and admiration toward the "Coming Dawn."

As I read on, page by page, I saw the rights and privileges of women had their rise beyond the "dawn" of History itself, and that the Historian, the measures of the Poet and the Pen of Romance, had been invoked, to record their proud and daring achievements, as well as to

chronicle the melancholy story of their wrongs; that the Sciences, Mythology and Religion, were but parts and parcels of this burning equation.

As I looked back into the dim twilight of mythical belief, I saw a conclave of the Olympian Gods, (4) where the brow of Jove, was cleft with a battle ax; and forth from the painless wound, sprang Minerva, full grown, warlike and martial in her posture, clad in glittering armor, with a poised spear in her hand; with a song of victory on her lips, she at once assumed the position of Mistress of the needle work and household duties. I said, "What a wonderful creation of thought." And to make it stranger still, she was supposed to be also Mistress of defensive warfare, as upon many occasions, she swept with bugle blast and battle cry in irresistible charge bearing the Aegis her father's shield.

And I said, "Here is the law of the household and needle work, which has been followed for ages by all the women, and here is also the fountain of Inspiration and Equity, where the "red headed" women of Arkansas and England, get their martial and warlike valor."

Atalanta (5) a maiden who lived in the dim and distant past, was the fleetest runner of all time; she had the speed of the wind; not wishing to marry she made it a condition, that the lover who should win her hand, should defeat her in a foot race; the condition was further coupled with the terrible decree, that in striving and failing, the lover should forfeit his head.

Five lovers, each as fleet as scientific training could make them, tried the race and each being defeated, paid the forfeit with his head.

Hippomenes, being in love with the maiden, looked with dismay at the lot of the defeated, but like all lovers determined to try his fortune in the race, let the consequences be what they may. He was a wise youth, however, and appealed to Venus, a lovely being who then as well as now, presided over the destinies of the human heart.

Venus gave him three golden apples, with instruction; the race commenced; Atalanta with her usual speed seemed to spurn the very ground; as she was passing the youth, he drew from his bosom, a golden apple and threw it at her feet; she paused to pick it up; on she came and when about to pass the youth a second time, he drew a golden apple from his bosom and threw it at her feet; the maiden paused to pick it up; the youth then ran ahead; on came the maiden again, and when about to pass him for the third time, the youth drew his last golden apple from his bosom and cast it at her feet; she paused to pick it up, but the goal being now so near, Hippomenes with a great burst of speed, won the race. (5)

They were of course happily married, and I said, "Here is the law, which decrees that "the race is not to the swift, nor the battle to the strong;" (6) it is also the law, which defines Marriage as a Miracle based on Love."

Hypatia, (7) the learned daughter of the celebrated Mathematician Theon, by her astute and learned comments, elucidated the intricate mysteries, of the Geometry of Apollonius, and enlightened the Mathematics of Diophantus.

She added, dignity to grace and learning, when she publicly taught at Athens, the esoteric Philosophy of Plato, and the god like reasoning of Aristotle.

In her youth and beauty, she was said to have been proof against love itself; and the eye of Cyril beheld with jealousy, the gorgeous train of slaves and horses, that crowded the door of her Academy.

I said, "This is the law which teaches, that the women are the equals if not the superiors of men in the abstract sciences."

It was the self sacrifice of Veturia (8) the mother of Coriolanus, kneeling as a suppliant at the feet of the Conquerer, her own son, that saved Rome the proud "Mistress of the World," from inglorious destruction by the Volcian Armies.

I said, "Here is the law of patriotism and self sacrifice."

To a woman Rome also owed the abolition of the regal dignity, and the establishment of the Republic; and to a woman she owed her delivery from the decemviri, and the restoration of the consular government; to a woman she owed the change of the Constitution by which the plebians became capable of holding the highest offices of the Commonwealth. (9).

I said, "Here is the law of power and generosity; the woman establishing offices and Empires for the man, and failing to keep any for herself, thus demonstrating modern "Political Science."

It was Cato (10) the Censor who wisely uttered this Paradox, "All men naturally govern the women, we govern all men, and our wives govern us." I said, "This is the unquestioned law in Texas today."

Artimissia Queen of Helicarnassus (11), gave dignity and grace to the military councils of Xerxes, in his unfortunate struggle with the Greeks, and it was said that had her wise councils been followed, the inglorious retreat of the Persian Army across the Hellespont, had never taken place.

The Scepter of Empire as swayed by Queen Semiramis is equal in renown to the polished Diplomacy of Phillipp of Macedonia, and the fame of her military achievements, eclipses and out-rivals the military fame of any of the Persian Kings.

Maria Theresa (12), when threatened by Prussian invasion in imitation of the race of the Caesars, ascended Mount Defiance, and unsheathing the sword of State, shaking it to the north, to the south to the east and to the west, established the supremacy of the Austrian arms, gave deathless fame to the Austrian Eagles, and founded the Palace of the Escorial forever.

In my opinion her fame and courage, will outlive the military and civic reputation of Frederick the Great, and the glittering but doubtful achievements of the Prussian Arms.

I said, "Here is the law of Minerva, again; a dramatic act, in keeping with the deathless valor of the Caesars."

The most brilliant Palace (13) of ancient or modern times; out-rivaling the sacred Temple of Solomon at Jerusalem; eclipsing the Pantheon at Rome or the Parthenon at Athens; statlier than St. Peters; loftier in architrave and richer in design, than the proud "Peace Palace" of Carnegie at the Hague; costlier than the finest of the public or private buildings of any of the capitolis of the known world, was erected by an Oriental King to the memory of his Queen.

It is called the "Taj Mahal" (14) in honor of her name; it was builded with glistening marble and embellished with burnished gold and sparkling gems; the richest marble quarries of Antiquity were laid under tribute to furnish the material; the richest mines and the great wealth of the "effete" East, were drawn upon to contribute to its splendors; the genius and architectural learning of the Orient were enlisted to form, fashion and finish this wonderful mausoleum.

Situate upon the banks of a flowing river, it was decreed, that its stately minarets, lofty towers and gilded domes should be forever reflected by its waves.

Glistening in its Imperial splendor and beauty, where polished marble, burnished gold and flashing gems, produced the most sensational and spectacular sight the world has ever beheld, it is viewed with admiration by pilgrims from every clime.

It is called the "Mable Poem," and it cost Fifteen Millions of Dollars (14), exclusive of the cost of the labor and if builded in America today, would cost One Hundred Millions in money. (14).

When I read of its beauty, I said, "Here is the unquestioned law of love, but what a wonderful woman to inspire such a love in a human heart."

I believe that it was the love of a beautiful and confiding woman, that caused the Martial Genius of the "Greatest Soldier of the modern world" (15), to establish upon the battle field, the deathless fame of the Grand Army and the Old Guard; and when he pushed her from his heart by the "cold hand of ambition" (15), then, "chance and fate combined to wreck the fortunes of their former king" (15), and in the words of a Southern Orator (16), "his sun went down veiled in the dark clouds of Waterloo, and Napoleon the Great, uncrowned, unthroned and stunned by the dreadful shock, that annihilated the Grand Army and the Old Guard, wandered aimlessly about on the lost field in the gloom that palled a fallen Empire, as Hugo describes him, "the somnambulist of a vast shattered dream."

I looked through the pages of my old History, and I saw that even the memory of a woman, quickened the heart beat and gilded the pen of the greatest Historian of the Ancient or Modern World.

Plutarch, groping in the dark, writing the world's proud History as made by Kings, Emperors and Conquerers, gave the pages of his History its most celebrated passage, when he described the passage of Cleopatra down the Cydnus (17) to answer at the Judgment Bar of Mark Anthony, where it was said that "Venus has come to feast with Bacchus."

Historians and orators in all ages, have tried but in vain to parallel the beauty and sublimity of his passages. When I read his lines, I said, "Here is the law of love, which has actually warmed up a human "Iceicle."

That the Roman General Camillus (18), made a vow to Apollo; to the end that it should be kept, the Senate decreed that a vase of "massy gold" should be sent to Delphi. Gold being scarce, the Roman matrons gave up their golden ornaments, as an offering to this God. The Senate in honor of their piety, decreed that they should have funeral orations as well as men, which had not been the custom before.

I said, "The old world seems to be waking up, and better a law to bury the women, than no law at all."

When the Romans and Sabines were reconciled to each other, many honorable privileges were conferred upon the women, some of which were these: (19).

That men should give them the way wherever they met them; that they should not speak any bad language in the presence of the women, and that in case they killed any person, they were to be tried by other Judges, than the ordinary Judges; that their children should wear an ornament about their necks called Bulla, from its likeness to a bubble; and that a garment bordered with purple may be also worn by the children.

I said, this law seems to be a fine law, and I wonder if it was ever imported into America to restrain the "old man" from "cussing around" in the presence of his wife.

"Arbitrary power has spoiled the shape of the foot in China; hurries the Indian woman to her husband's funeral pile; makes the daughters of Eve in Persia mere chattels; gives a woman the twelfth part of a husband's property in the dominion of the Grand Turk, and renders them slaves of dueñas and gobernantes in Spain and Italy." (20).

If the laws, affecting the rights and privileges of the women, were traced back to their origin and codified, it would take larger books than constituted the Roman Pandects of Justinian.

In primitive times among a people yet rude and barbarous, marriage as now recognized, as a rule did not exist. (20). When the relation of husband and wife were first recognized, the woman was practically a slave, the captive or purchase of her master, and the mutual rights and duties were either unknown or at most but dimly suggested by customs or codes. (21).

The rights were as usual with the victor, the strong arm; man ruled by brute force; the work and toil and heavy burdens fell upon the vassal the woman. (22).

As the social life advanced, there was more or less ceremony in connection with the choice of a wife (23); and a recognition of the husband's absolute supremacy (24). His control of his wife's person, and his dominion over whatever property she possessed, begun to be regarded as the settled law. (24).

There were exceptions, of course, but the prevailing systems, which survived all others were the Roman and English laws (25). Under the early Roman law the power of the husband was absolute, and her identity was completely merged into him; (25) he had the power to chastise (25), sell or even to kill his wife (26); he became the owner of all of her property and was entitled to all of her earnings and labor (27), and she was in contemplation of the crude codes, a child of her own husband and a sister to her own children (27); she inherited at her husband's death only as one of his heirs (27).

Under the English common law, the husband and wife were regarded as one person (27); her identity (29) was merged in that of her husband (28); her rights under this law, however, became in some respects very nicely adjusted, and the rule of the common law with reference to women (28), has been heretofore at some times, dispensed in Texas, but I desire to here state, that the rights of the husband to chastise his wife under the common law, never obtained in this state (31).

The Texas Constitution of 1876, as well as all prior constitutions of Texas and the Republic, recognizes the rights of married women, in real and personal property (30).

Art. 16, Sec. 15 of such Constitution fixing the wife's separate property reads thus: (32)

"All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property."

While the laws for the full protection of the married women in Texas, have been tedious in development, I believe that they had not received full recognition in property and contract rights, prior to

1913, principally because of a lack of concerted action in asking for relief, rather than indifference to their rights by a majority of the members of the Legislature.

Prior to 1913 it was the law of Texas, that the earnings of the wife, was the community property of the marriage and subject to the husband's control, debts and disposition (33); that her Bank account could be taken by him (34), even if in her private and individual name (34), he being in the eye of the expressed law, the sole custodian and manager of her fortune (35), as well as the Arbiter of her Fame.

Under such laws, all of the interest derived from loans of her money (36), notes (37), and dividends on stock and bonds (38), as well as all increase of her cattle, flocks and herds (39), were community property and subject to the husband's control and management as well as being subject to his debts (39); that all profits in her business, even if established with her separate funds, and conducted by her personal labor became community property and subject to the husband's management, control and debts (40); all the rents of her separate property as well as all crops (41) grown on her lands were community and controlled by husband and subject to his debts (41); the exception of rents of her lands from this liability, being in those cases only where controlled by ante nuptial contracts or where placed in hands of Trustees with written exemptions from such liability (42).

Under the former laws prior to Acts of 1913, the rights of the wife to contract, for other than necessities for herself and children, and with reference to care and improvements of her separate estate, were very limited (43); yet the laws were so arranged, that if she desired, she could give a valid lien on her separate lands (44), which were generally exempt from her husband's debts (44), to secure his notes or debts, if same were reduced to writing and duly signed and acknowledged by his wife, with joinder of the husband (45).

During 1913 the Thirty Third Legislature of Texas passed an act (44), which was for the relief of the married woman and doing away with some of the features of the old laws and decisions of the courts, and gave the right of contract to the married woman. I do not find, after a careful study of this Act, many exceptions to such right of contract.

It is provided that she may do all things, which an ordinary person not under disability may do, except, that she can not sell her home without her husband joining in the deed (47), which must of course be duly acknowledged, to be binding; that she can not sell her separate real estate or her stocks or bonds, or become a surety without the joinder of her husband (38), save and except, that if he refuses to join in the items mentioned other than the homestead and suretyship, she can still have right to sell by herself upon procuring order of the District Court, showing the proper advantage to her separate estate (49).

While this new Act proposes to protect certain property which was formerly liable for the husband's debts, from his management, control or further debts, still it leaves it as formerly community property (50), as we shall hereafter see, but makes some if not all of such common property subject to the wife's individual debts by contract. (50)

While the Act does not materially increase the scope of the wife's separate property, still it aids her by its "exemptions," and it may be that the Legislature could not proclaim other property her "separate" property except that which has been mentioned in the above Sec. 15

of the Constitution. The Acts defines, rents of the separate property, the wife's earnings, her labor, the increase on notes such as interest, and dividends on stocks and bonds purchased with her separate funds, as community property (51) just as they have been before, but declares that they are subject to neither the husband's debts or his control. (52).

The husband's separate estate, as well as all community estate, save and except such community as it made expressly liable for the wife's debt, is exempted (53) under the Act from the contract debts of the wife made generally.

Those items of community which are responsible for the debts of the wife contracted generally, are such as "personal earnings of the wife, and the income, rents and revenues from her separate estate;" (54) however she has only a special right of contract as a surety for the debt of another which, will be referred to later.

It seems as if the Act contemplates that the "personal earnings of the wife" shall be subject to her debt (55); now if "personal" earnings, include "wages" as that term is understood in the Constitution, then it may be the Legislature has exceeded its power in making such liable for any debt of the wife, without special contract lien or assignment thereof be given, as "current wages" are under the Constitution (56) exempt from Garnishment.

What status "interest" on money loaned by wife, where not evidenced by note or other written obligation, occupies, is not clearly defined by the Act. Under the old law as we have seen "such interest" was community property and subject to the husband's control and under the ruling of the courts subject to his debts; it seems that it was the intention of the Legislature to make all "interest" on notes and bonds community property but exempt from the husband's debts.

Separate property of the wife. (57).

"Real and personal owned or claimed by her before marriage, and that acquired afterwards by gift, devise or descent, as also the increase of all lands thus acquired."

Control. (58) (59).

Wife has sole control of real and personal, which belongs to her separate estate. Also sole disposition except where specially excepted.

Disposition and encumbrance of real estate and sale of stocks and bonds, her separate estate.

Husband must join in such with wife, and in event of refusal she has right to have order of District Court to act alone, by making proof that such sale or encumbrance is advantageous to her interest.

Wife's property not subject to debts of husband. (60).

None of her separate property can be taken for the debts of husband, (real or personal), nor increase in land, rents, interest on bonds and notes, and dividends on stocks or bonds or her personal earnings. Just what will be done, with the increase of cattle and the interest on money other than that loaned by note, bond or other evidence of like nature, remains to be seen; it may be that such items will be included in terms under the old law.

Common Property. (61).

All property acquired by either or both during marriage (except that which is deemed to be separate as herein before defined) including the personal earnings of the wife rents of her property, interest on bonds and notes and dividends on stocks and bonds.

Common property under control of the husband. (62).

Has power of control of all of the common property, and disposition thereof, except income from wife's separate estate, her personal earnings, rents of her property, and interest on notes and dividends on stocks and bonds.

Common property under control of the wife. (63).

The personal earnings of the wife, rents of her real property, interest on notes and bonds and dividends on her stocks. She has sole control and management of all of her separate property of every kind, real personal or mixed.

Wife's power to contract with reference to lien and sale of her separate estate. (64).

Has the sole disposition and right to encumber any of her personal property; but in sale of stocks and bonds she shall be joined by her husband, and has right to sell without husband if order of court is obtained.

In sale or encumbrance of her real estate, husband must join or order of court be procured, in event of his refusal.

Wife's power to contract generally. (65)

She is given full power to contract, except she shall not be allowed to become surety except in certain cases hereinafter mentioned; she may become a trader or a merchant; she may carry on a business; but the debts may not be paid from any of the "corpus" of her separate estate, it being provided, that payment may be had from her personal earnings income, rents and revenues of her property; provided that such limited exceptions of property on debts shall not apply to necessities furnished to her or her children.

Wife's power to be joint maker of note as surety for another. (66).

To be a joint maker of a note she must be joined by her husband; the statute does not give her the right to a court order in this instance should he refuse to join.

Wife's power to be a surety on a bond or note. (67).

She shall never be a surety on a bond or other obligation of another without the joinder of her husband.

Her Bank Account. (68).

This is protected from her husband's check or draft if in her name, and what is more, his bank account is also protected from her checks or drafts.

Can she become a surety for the debts of her husband and execute a valid lien on her separate property to secure the debt? (69).

The Act provides, "Neither the separate property of the wife nor the rents from the wife's separate estate, nor the interest on bonds and notes belonging to her nor dividends on stocks owned by her, nor her personal earnings, shall be subject to the payment of debts contracted by the husband." Under the old law, it was the repeated rule of the decisions of Texas (70), that the wife could when joined by husband in due form of law give a lien as security for his debt on her separate real estate; however under the old law, her separate property was not liable for her husband's debts generally speaking, and the above quoted clause of the new Act was not read into the old law as it has been into the new. It is plain that it was the intent of the Legislature to protect the separate property of the wife as well as certain community properties from liability for the husband's debts.

This immunity of her separate property from the debts of the husband, is a privilege, which in my opinion she may waive, if she so de-

sire, and in the event that she should execute a lien on such property in due form as under the old law for her husband's debts, then it may bind her and her property.

That the wife could renounce such privileges was recognized in case of *Hollis vs. Fancois* decided many years ago in Texas and reported in 5 Texas Reports page 203; it has often been cited as a leading authority on this point.

The rule is tersely stated by an eminent legal authority as follows: "That a Constitutional rule or statutory provision however that the wife's separate property shall not be liable for the payment of the husband's debts, does not prevent her from voluntarily mortgaging her estate for his debts." (a).

(a) 21 "Cyc" (Encyclopaedia of Law and Procedure) page 1484, note 71 citing

Schneider vs. Slaeter 20 Mo. 269

Hitz vs. Jenks 123 U. S. 297.

Barrell vs. Tilton 119 U. S. 637.

This 33rd Legislature passed also a very wholesome law for the benefit of the women and children (71), in that it made it an offense punishable by fine for a man to wilfully desert or refuse to support his wife or child; and when I read it, I said, "That is a good law, for before God and his holy angels no man has the right to desert his wife or child and leave either or both penniless upon the charity of a cold world."

While the laws of Texas seem fair enough for the women, yet there is one boon, that they deny to the ladies which the writer personally believes, that they should have. That is the right of general suffrage or voting. I have been told that the Southern Women, did not desire this franchise, but I am not sure of the correctness of that report; but even if she did not desire it, the same should be granted as a matter of right, she being a citizen; and I believe that every worthy citizen should have the right of the ballot, under the proper limitations.

I have heard the argument advanced from time to time that the women did not have intelligence on the affairs of man to form a correct idea of what was right in voting; that they also would be controlled by their husbands, and the single ladies by their sweethearts; also that if the white woman was allowed to vote the colored woman, could not be prohibited; and many other such arguments, which to me when I heard them, I said, "Sure this is not good reasoning and if it is law at all it is the law of "Buncombe."

The Constitution of the United States (72) is very liberal in this matter, but while it elevates the women to the rights of citizenship, which of course carries with it the right of suffrage (7), it has been held in the case of *United States vs. Susan B. Anthony* reported in 11 Blatch, page 200, that the First Clause of the Fourteenth Amendment to the United States, while it granted the privilege of voting to the citizen, even a woman, yet it was not self executing (73). In the instant case, Susan B. Anthony claim that the section of the Constitution referred to was self executing and voted at an election for Congress. She was indicted by a Federal Court for illegal voting and, when it appeared to the court that she was a woman and did actually vote, a charge was given the jury to return a verdict of guilty.

The Texas Constitution is the barrier in the way of the women voting in this State. In Art. 6 Sec. 1 (74), it provides that certain named persons shall not vote; it is immaterial now to name such class, but it does not exclude "women." Sec. 2 (75) of the same Art. how-

ever, prescribes who shall be qualified voters. It reads, "Every male person subject to none of the foregoing disqualifications—shall be deemed a qualified voter." So you will see that the qualified voter can be no other than a "male" person.

Had I the power I would change that Section for you so that you could vote, by just adding thereto only two words. I would place the words "and female" after the word "male" and it would then read as follows. "Every male and female person subject to none of the foregoing disqualifications—shall be deemed a qualified voter."

Some lawyers would say, that it is not necessary to add any words at all, just strike out the word "male" and then it would read "Every person" which of course would include the woman; but I could not agree to that for some Judge may construe the Section, as he would put it, in the light of the world's history and the courts former decisions and that it was not plain that the lawmakers intended "Every person" to include "women."

It takes time to change the Constitution, but the women can have it changed in the respect referred to if they shall work to that end.

There is a further question on the lines of Political Science, and that is the right of the woman to hold public office, notwithstanding her inability to vote. The married women, only were handicapped from holding office in Texas heretofore, where bonds were required to be executed under Statutes, she being prior to 1913 incapable of being Principal or surety on such bonds (76). The Acts of 1913, however, is supposed to have given the married woman, power of "contract" (77) and it may be that she can give like her single sister all bonds, required. (78).

The question arises, are the "women" then debarred from holding public office merely because they are not "males" or "qualified" voters?"

The solution of this question is found in the failure of the Constitution to fix specific terms defining who shall be "eligible to office." Of course it defines certain persons who can not hold office or can not hold certain offices, but does not in express terms prohibit women. In the case of *Stensoff vs. State* Ex. Rel. 15 S. W. R. page 1100, decided by the Supreme Court of Texas through Judge Gaines, it was held that it was not a prerequisite under the present Constitution of 1876, that a person should be a "qualified voter" to be capable of holding the office of Tax Assessor. The Court pertinently says:

"When a Constitution has been framed which contains no provision defining in terms who shall be eligible to office there is strength in the argument that the intention was to confide the selection to the untrammelled will of the electors."

The prior Constitution of 1869 contained the provision that no person shall be eligible to office, State, County or Municipal, who is not a **registered voter** of the State.

In the above case, Judge Gaines, adds that the "omission of a similar article in the present Constitution is not without its significance." It therefore seems to follow, that, both married and single women may hold public office in Texas, save and except in the cities and towns incorporated under General Laws or in those cities, where special Charter provides that the officers shall be "qualified voters."

I hope that the ladies, will not have the present inclination to run for office in Marshall for its Charter provides that all elective officers shall be "qualified voters."

It seems passing strange, that the women have learning enough to

hold office, make bonds and discharge with credit to themselves and honor to their constituents, the duties prescribed by Statutes, yet are not intelligent enough to vote "right."

There are the taxing laws, which tax the woman's property just like the man's, advalorem, special street paving, good roads bond issue and so on, and that whether she be married or single, and she is given no voice in the matter at all, notwithstanding some of the special taxes are levied and collected under a special vote of the local voters "qualified electors," wherein she is not only denied a vote but is prohibited by law, from coming any nearer to the polls than "one hundred feet." (79). She is permitted to stand out at the end of the "ropes" and look pleasant and that is all except the "paying." I said, "This is an illustration of that part of the law which says "Jordan is a hard road to travel."

The Woman can pay for the good roads and paved streets; for the automobile and the gasoline which propels it over the smooth surface; she can pay for the "cigar" in the Chauffeur's mouth, as he runs the machine; but she can't vote a ballot to save her life.

I said, "What a monstrosity is this law, which taxes without any pretense of representation of power at the ballot box; the little unpleasantness between England and her American Colonies arose over some question like that or some other question, but that is Ancient History and has no place here.

Illinois has recently had the women in actual voting contests, in the open field (81); the record, show, that certain "burning" questions upon which the destinies of the human race shall rise or fall, had been theretofore submitted under the ballots of the men only, at the bar of the ballot; and had been ignobly lost against the interests of humanity; under the contest submitted again, when the women were given the power of the ballot, it was fought over; it was the Battle of Waterloo, fought again; the women marching to the polls, keeping step to the strains of martial music played by an hundred bands; with Flags and Banners flaunting over their unbroken ranks they marched to victory at the "double quick;" it was a sinless victory and a bloodless defeat; the former decision and judgment were reversed by their ballot, and the question decided in the interest of humanity and it was decided "right."

The women of Texas can and will do as nobly, if given this ballot and power; justice should not deny this boon if it should consider no other qualifications of the woman than her "constancy to her Trust." As I look back to the very dawn of the Civilization of this wheeling Globe, I see the woman bending over and protecting with her loving hands the sons and daughters of the human race, from the cradle to the grave; teaching and educating, clothing and feeding their children, and as it were swearing them at the very Altar for Truth, Honesty and Virtue; her vigils are greater in watching over the human race than the lessons of constancy taught, by the patient watching of Penelope for the return of Ulysses, who had sailed from Ithaca, out into the west; than the constancy of the Polar Star, as it stands a silent sentinel, forever, guarding the Throne of the Eternal North; than the constancy of the Pyramids of the land of Isis and Osiris, mute sentinels and witnesses of the glory of fallen Empires, forever pointing to the bending heavens above; of the constancy of the stony-faced Sphinx of Gizeh and the Nile facing for four thousand years, the rising dawn.

I invite your attention to the action of the women of England; look at the action of the women of America; I said, "In England, it is Turk "met" Turk; in America it seems, as if lovers and sweethearts have met. Their converse action and results, reminds me of a mountain lake of which I have read.

It is said that upon the snow crested Alps, there is a mountain Lake, the waters of which find their way to the Ocean by two different channels; one portion goes the way of the "wide and winding Rhine," and mingles with the stormy waves and crashing icebergs of Northern Seas. The other portion joins the blue current of the "Arrowy Rhone," and sinks to rest in the Mediteranean, along the vine clad hills and sunny vales of France; one portion finds a home beneath the cold splendors of Auroral light, amid the freezing horrors of an Arctic Zone; the other blushes beneath the glow of "Italian skies" and lingers around the classic shores and storied Isles of Greece.

I said, "I believe that this is the "International" law of warfare, and is only solved by Mr. Vattel in his "Law of Nations;" the English woman has attempted to "tomahawk" old John Bull, while on the "war path" and has met with irresistible friction; the American woman, has brought the sons of "Uncle Sam" to her feet, by her Wisdom her winning ways and irresistible smile.

In conclusion, I would like to say, that, whatsoever shall be the future of woman, as she toils on through the coming "dawn," guided by just laws breathing the spirit of equity; with her mind illuminated by Wisdom, and the Sciences shedding their luster over her pathway; armed with the Thunderbolt of Truth, to invade the very citadel of Knowledge; teaching her sons and daughters, the lessons of Toil, Honesty and Virtue; armed with the sword of the Ballot and the Science of "Eugenics," I think that the future history of Woman, shall be the "Evangelized" history of the human race.

But I do not believe, nor can I hope, that they shall be a better race than the present, for I do believe that we have a "race of the bravest men and the most beautiful women, that the sun in the heavens ever shone upon."

"The Woman's cause is man's; they rise or sink,

"Together, dwarfed or god like, bond or free.

"For she that out of Lethe scales with man,

"The shining steps of Nature, shares with man

"His nights, his days, moves with him to one goal."

(C. E. C.)

AUTHORITIES FOR "LECTURE" OF CHARLES CARTER BEFORE WOMEN'S FEDERATED CLUBS.

- 1 Mrs. T. P. Young.
- 2 Miss Paye Lane.
- 3 Rollin Hist. Bk. 5, Art. 9.
- 3 Littles Hist. Lights Sec. 5499.
- a Then County Clerk of Harrison County.
- 4 H. A. Guerber "Myths of Greece and Rome," 55.
- 5 H. A. Guerber "Myths of Greece and Rome," 228.
- 6 Solomon's Proverbs.
- 7 Gibbons Rome Ch. 47, p. 502.
- Littles Hist. L. Sec. 6078.
- 8 Tytlers Hist. Bk. 3, Ch. 4.
- Littles Hist. L. Sec. 6101.
- 9 Tytlers Hist. Bk. 3, Ch. 6, p. 348.
- Littles Hist. L. Sec. 6121.
- 10 Plutarchs Cato.
- Littles Hist. L. Sec. 6138.
- 11 Tytlers Hist. Bk. 2, Ch. 1 p. 135.
- Littles Hist. L. Sec. 6110.
- 12 Macauley's Frederick the Great, 35.
- Littles Hist. L. Sec. 756.
- 13 Gen. Grant's Travels 300.
- Littles Hist. L. Sec. 6061.
- L. N. Chapin's "Beautiful and Wond. and Wise," 245.
- Webster's Int. Dict. Appendix.
- 14 Gen. Grant's Travels, 300.
- Littles Hist. L. Sec. 6061.
- 15 Quotation, Ingersoll's Napoleon.
- 16 Bob Taylor's Lectures, p. 198.
- 17 Plutarch's Anthony (Winston's Ed. Vol. 5, p. 195).
- 18 Plutarchs' Camillus.
- Littles Hist. L. Sec. 6119.
- 19 Plutarch's Romulus.
- Littles Hist. L. Sec. 6116.
- 20 Knight's Eng. Vol. 5, Ch. 27, p. 418.
- Littles Hist. L. Sec. 6122.
- 21 21 "Cyc" 1143.
- 22 Id. Citing McLennan Studies; Howards Mart. Inst. Ch. 4.
- 23 Id.
- 24 Id.
- 25 21 "Cyc" 1143.
- Sohm Inst. Sec. 93.
- 26 Id.
- 21 "Cyc" 1143.
- Gaius 1—115; 136.
- 27 21 "Cyc" 1143.
- Sohm Inst. 93, 94, 109.
- Bryces' Stud. Hist. & Juris. 818.
- 28 21 "Cyc" 1143.
- Cartwright vs. Hollis, 5 Texas 152.
- 29 21 "Cyc" 1143.
- 30 Harris Tex. Cons. (1913) p. 743.
- 21 "Cyc" 1150.
- 1 Blackstone Com. 444-445.
- 31 Gorman vs. State, 42 Texas 221.

- 32 Harris Tex. Const. (1913) p. 733-734.
- 33 Tucker vs. Carr, 39 Tex. 102; (65 Tex. 425; 27 Tex. 457).
- 34 Parks vs. Williard, 1 Tex. 350; Kempner vs. Huddleston, 90 Tex. 182 (Rev. St. 2967 (1895); 28 Tex. 382; 24 Tex. 304.
- 35 Coleman vs. Bank, 43 S. W. (Tex Civ.) 132; aff. in 94 Tex. 605, 63 S. W. (Tex. Sup.) 867.
- 36 Martin Brown Co. vs. Perrell, 77 Tex. 199; 13 S. W. R. 975.
- 37 Cabell vs. Mencer, 35 S. W. (Tex.) 206.
- 38 Bryan vs. Bank, 90 S. W. R. (Tex.) 704; aff. in 101 Tex. 630.
- 39 Blum vs. Light, 81 Tex. 414; 16 S. W. 1090; 20 Tex. 670, 25 Tex. 270.
- 40 Miller vs. Marx, 65 Tex. 131; 65 Tex. 425; 65 Tex. 402; 66 Tex. 553.
- 41 Rhine vs. Blake, 59 Tex. 240; Schepflin case 23 S. W. (Tex.) 432; Allen vs. Roead, 66 Tex. 13; 17 S. W. 115.
- 42 DeBlane vs. Lynch, 23 Tex. 25; 24 Tex. 611; Cleveland vs. Cole, 65 Tex. 402; White vs. Lynch 26 Tex. 195.
- 43 Monday vs. Vance, 32 S. W. (Tex.) 559; 23 S. W. (Tex.) 432, 86 Tex. 194; 24 S. W. (Tex.) 385.
- 45 Kutch vs. Holly, 77 Tex. 220; Wofford vs. Nnger, 55 Tex. 480.
- 46 Acts Tex. Leg. 33 Ch. 32, p. 61-63 (Arts 4621, 4622, 4624).
- 47 Harris Tex. Const. 1913, 7785.
- 48 Acts Tex. 33rd Leg. Ch. 32, Art. 4621.
- 49 Id.
- 50 Id. Art. 4624.
- 51 Id. Art. 4622.
- 52 Id. Art. 4621-2.
- 53 Id. Art. 4624.
- 54 Acts Tex. 33rd Leg. Ch. 32; Art. 4624.
- 55 Id.
- 56 Harris Tex. Const. 1913, page 763.
- 57 Acts Tex. 33rd Leg. Ch. 32, Art. 4631.
- 58 Id. Art. 4621.
- 59 Id.
- 60 Acts Tex. 33rd Leg. Ch. 32, Art. 4621.
- 61 Id. Art. 4622.
- 62 Id. Id.
- 63 Id. Id.
- 64 Id. Art. 4621-2.
- 65 Acts Tex. 33rd Leg. Ch. 32, Sec. 1 and 2.
- 66 Id. Art 4624.
- 67 Id. Id.
- 68 Id. Art. 4622.
- 69 Id. Arts. 4621, 4624.
- 71 Acts Tex. 33rd Leg. Ch. 101, page 188.
- 72 Harris Tex. Const. 1913, page 25.
- 72 15 "Cyc" 298.
- 74 Harris Tex. Const. 1913, page 495.
- 75 Id. page 487.
- 76 Cruger vs. McCracken, 87 Tex. 584, 30 S. W. R. 537; Hollis vs. Francois, 5 Tex. 195.
- 77 Acts Tex. 33rd Leg. Ch. 32, "Emergency Clause."
- 78 Sayl. Tex. Civ. St. 1914, Art. 793-4.
- 79 Acts Tex. 29th Leg. Ch. 9, Sec. 84.
- 80 Id.
- 81 Prominent Newspapers; Globe Democrat.

THE LAWS OF THE RIGHTS AND PROPERTY OF WOMEN IN TEXAS.

Rights of all persons under Federal Constitution.

- 1 "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are "citizens" of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of United States.
- 2 "Nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." (65).
The right to vote.
- 3 "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude." (66).
Power to enforce.
- 4 "The Congress shall have power to enforce this article by appropriate legislation." (67).

Texas Laws for the Husband and Wife.

Who authorized to celebrate marriage rights.

- 5 "All regular licensed or ordained ministers of the gospel, Jewish rabbis, judges of the district and county courts, and all justices of the peace of the several counties are authorized to celebrate the rites of matrimony between all persons legally authorized to marry." (68).

Who not permitted to marry.

- 6 "Males under sixteen and females under fourteen years of age shall not marry." (69).

License issued by County Clerk.

- 7 "Any person desirous of marrying shall apply to the Clerk of the county court, and shall receive from him a license directed to all persons authorized by law to celebrate the rites of matrimony, which shall be sufficient authority for any one of such persons to celebrate such marriage." (70).

Clerk shall not issue license in certain cases.

- 8 "No clerk shall issue a license without the consent of the parent or guardian of the parties applying, if there be a legally appointed guardian of either party to such license, said consent to be given in person or in writing, signed and acknowledged by said parent or guardian before an officer authorized to take acknowledgement, unless the parties so applying shall be, in case of the male twenty-one years of age, and in case of the female eighteen years of age, and if there be any doubt in the mind of the clerk of the county court issuing such license, he shall not issue said license unless there shall be presented to him a certificate under oath from their parent or guardian or some person other than the contracting parties that the contracting parties have attained the ages aforesaid:"

"Provided further, that nothing in this Act shall be construed to affect the issuance of marriage license in seduction prosecution.

- 9 "Provided, that in cases where any minor has neither parent nor guardian, then the clerk shall not issue a license without the

consent of the county judge of the county of the residence of such minor, such consent to be in writing and signed and acknowledged by such county judge." (71)

Return and recording of License.

- 10 "The said clerk shall record all licenses issued by him in a well bound book kept for that purpose; and it shall also be the duty of the persons solemnizing the rites of matrimony to indorse the same on the license and make return of the same to the office of the clerk of the county court within sixty days after the celebration aforesaid; which return shall also be recorded as aforesaid." (72).

Certain intermarriages prohibited.

- 11 "It shall not be lawful for any person of Caucasian blood or their descendants to in-termarry with Africans or the descendants of Africans; and, should any person as aforesaid violate the provisions of this article, such marriage shall be null and void." (73). ✓

Marriages heretofore by bond (1840) validated.

- 12 "Whereas, many persons heretofore, previous to the passage of an act approved June 5, 1837, regulating marriages, and for other purposes, had, for the want of some person legally qualified to celebrate the rites of matrimony, resorted to the practice of marrying by bond, and others have been married by various officers of justice not authorized to celebrate such marriages, and whereas, public policy and the interest of families require a further legislative action of the subject, therefore, all such marriages are declared legal and valid to all intents and purposes, and the issue of such persons are declared legitimate children and capable of inheritance." (74).

Issue legitimized.

- 13 "In cases where persons have so intermarried agreeably to the custom of the times, and where husband or wife has since died, then and in that case the issue of such marriages are hereby legitimized." (75).

Slave marriages.

- 14 "All persons who at any time heretofore have lived together as man and wife, and both of whom, by the laws of bondage, were precluded from the rites of matrimony, and continued to live together until the death of one of the parties, shall be considered as having been legally married, and the issue of such cohabitation is declared legitimate; and all such persons as were so loving together in such relation on the fifteenth day of August, 1870, shall be considered as having been legally married, and the children heretofore or hereafter born of such cohabitations are declared legitimate." (76).

Marriage contracts; what stipulations may be made.

- 15 "Parties intending to enter into the marriage state may enter into what stipulations they please, provided they be not contrary to good morals or to some rule of law; and in no case, shall they enter into any agreement, or make any renunciation, the object of which would be to alter the legal orders of descent, either with respect to themselves, in what concerns the inheritance of their children or posterity, which either may have by any other person, or in respect to their common children; nor shall they make any

valid agreement to impair the legal rights of the husband over the person of the wife, or the persons of their common children." (77).

How authenticated.

- 16 "Every matrimonial agreement must be acknowledged before some officer authorized by law to take acknowledgments to deeds, and attested by at least two witnesses; the minor capable of contracting matrimony may give his consent to any agreement which this contract is susceptible of, but such agreement must be made by the written consent of both parents, if both be living; if not, then by that of the survivor; if both be dead, then the written consent of the guardian of such minor." (78).

Can not be altered after marriage.

- 17 "No matrimonial agreement shall be altered after the celebration of the marriage." (79).

Reservation by wife must be recorded.

- 18 "When the wife, by a marriage contract, may reserve to herself any property or rights to property, whether such rights be in esse or expectancy, such reservation to be valid as to the subsequent purchasers or creditors of her husband, must be acknowledged and recorded as provided by law." (80).

Separate property; management; joinder of husband; permission of District Court when husband refuses to sign; property of wife not subject to husband's debts; conveyance of homestead.

- 19 "All property, both real and personal, of the husband owned or claimed by him before marriage, and that acquired afterwards by gift, devise or descent, as also the increase of all lands thus acquired shall be his separate property.

- 20 "The separate property of the husband shall not be subject to the debts contracted by the wife, either before or after marriage, except for necessities furnished herself and children after her marriage with him.

- 21 "All property of the wife both real and personal owned or claimed by her before marriage, and that acquired afterwards by gift, devise or descent, as also the increase of all lands thus acquired shall be the separate property of the wife.

- 22 "During marriage the husband shall have the sole management, control and disposition of his separate property, both real and personal, and the wife shall have the sole management, control and disposition of her separate property, both real and personal;

- 23 "Provided, however, the joinder of the husband in the manner now provided by law for conveyance of the separate real estate of the wife shall be necessary to an encumbrance or conveyance by the wife of her lands, and the joint signature of the husband and wife shall be necessary to a transfer of stocks and bonds belonging to her or of which she may be given control by this Act;

- 24 "Provided, also, that if the husband shall refuse to join in such encumbrance, or conveyance, or transfer of such property the wife may apply to the District Court of the county of her residence, and it shall be the duty of the court, in term time or vacation, upon satisfactory proof that such encumbrance, conveyance or transfer would be advantageous to the interest of the wife, to make an order granting her permission to make such

encumbrance, conveyance or transfer without the joinder of her husband, in which event she may encumber, convey or transfer said property without such joinder.

- 25 "Neither the separate property of the wife, nor the rents from the wives' separate real estate, nor the interest on bonds and notes belonging to her, nor dividends on stocks owned by her, nor her personal earnings shall be subject to the payment of debts contracted by the husband.

- 26 "The homestead, whether the separate property of the husband or wife, or the community property of both, shall not be disposed of except by the joint conveyance of both husband and wife." (81).

(Scott vs. Scott, 170 S. W. R., 273 upholds the act. The case of Bank vs. McWhorter, 179 S. W. R. p. 1147, make Sudan seed grown on wives' land subject to husband's debt).

Community property; what property under control of wife. Bank deposits.

- 27 "All property acquired by either the husband, or wife during marriage, except that which is the separate property of either one or the other, shall be deemed the common property of the husband and wife, and during coverture may be disposed of by the husband only, provided, however,

- 28 "The personal earnings of the wife, the rents from the wife's real estate, the interest on bonds and notes belonging to her and dividends on stocks owned by her shall be under the control, management and disposition of the wife alone, subject to the provisions of Article 4621, as hereinabove written; and further,

- 29 "Provided, that any funds on deposit in any bank or banking institution whether in the name of the husband or the wife, shall be presumed to be the separate property of the party in whose name they stand, regardless of who made the deposit, and unless said bank or banking institution is notified to the contrary, it shall be governed accordingly in honoring checks and orders against such account." (82).

Compensation for injury to wife her separate property.

- 30 "All property or money received as compensation for personal injuries sustained by the wife shall be her separate property, except such actually and necessary expenses as may have accumulated against the husband for hospital fees, medical bills and all other expenses incident to the collection of said compensation." (83).

Presumption as to community property.

- 31 "All the effects which the husband and wife possess at the time the marriage may be dissolved shall be regarded as common effects or gains, unless the contrary be satisfactorily proved." (84).

Property subject to debts of wife; husband to join in certain contracts.

- 32 "Neither the separate property of the husband nor the community property other than the personal earnings of the wife, and the income, rents and revenues from her separate property shall be subject to the payments of debts contracted by the wife, except those contracted for necessities furnished her or her children;

- 33 "Provided the wife shall never be the joint maker of a note or a surety on any bond or obligation of another without the join-

der of her husband with her in making such contract." (Nelson vs. Dearborn 179 S. W. 1102 holds that wife can not be surety on appeal bond even with husband's consent.") (85).

Judgment and execution in such cases.

- 34 "Upon the trial of any suit as provided for in the preceding article, if it shall appear to the satisfaction of the court and jury that the debts so contracted or expenses so incurred were for the purposes enumerated in said article, and also that the debts so contracted or expenses so incurred were reasonable and proper, the court shall decree that execution may be levied upon either the common property or the separate property of the wife, at the discretion of the plaintiff." (86).

Husband failing to support wife, etc.

- 35 "Should the husband fail or refuse to support his wife from the proceeds of the lands she may have, or fail to educate her children as the fortune of the wife would justify, she may, in either case, complain to the county court, which, upon satisfactory proof, shall decree that so much of such proceeds shall be paid to the wife for the support of herself and for the nurture and education of her children, as the court may deem necessary." (87).

Community property liable for debts.

- 36 "The community property of the husband and wife shall, be liable for their debts contracted during marriage, except in such cases as are specially excepted by law." (88).

Wilful refusal to provide for wife and child.

- 37 "Any husband who shall wilfully or without justification, desert, neglect or refuse to provide for the support and maintenance of his wife, who may be in destitute or necessitous circumstances, or refuse to provide for the support and maintenance of his or her child or children under the age of sixteen years in destitute or necessitous circumstances, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and not more than five hundred dollars or by imprisonment in the county jail not more than one year or by both such fine and imprisonment." (89)¹

Pending suit wife may be supported by order.

- 38 "At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court or judge thereof in vacation, may enter such temporary orders as may seem just, providing for the support of the deserted wife or children, or both, pendente lite, and may punish for the violation of or refusal to obey such order or orders as for contempt." (90).

Evidence of such marriage.

- 39 "No other or greater evidence to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, shall be required than is or shall be required to prove such facts as in a civil action.
- 40 "In no prosecution under this Act shall any existing statute prohibiting disclosures of confidential communications between husband and wife apply, to strictly relevant facts and both husband and wife shall be competent and compellable witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children.

- 41 "Proof of the desertion of such wife, child or children in desti-

tute or necessitous circumstances or the neglect to provide for the support and maintenance of such wife, child or children shall be prima facie evidence that such desertion, neglect or refusal is wilful." (91).

42 "An offense under this act shall be held to have been committed in the county in which such wife, child or children may have been at the time such abandonment occurred, or in the county in which such wife, child or children shall have resided for six months next preceding the filing of the complaint, information or indictment." (92).

43 "It shall be the duty of the Commissioners' Court of the county in which a complaint, information or indictment under this Act is filed to furnish the funds necessary for extraditing or arresting and returning to such county any defendant under this Act who is not at the time in such county or who has gone to another state." (93).

44 "This Act shall be liberally construed and if any section thereof be declared invalid, the remaining parts of the law shall not be affected thereby, as it is the intent of the Legislature to preserve all, any and every portion of said Act, if possible." (94).

Female under 21 emancipated by marriage.

45 "Every female under the age of twenty-one years, who shall marry in accordance with the laws of this state, shall, from and after the time of such marriage, be deemed to be of full age, and shall have all the rights and privileges to which she would have been entitled had she been at the time of her marriage of full age." (95).

Rights of persons married elsewhere.

46 "The marital rights of persons married in other countries, who may remove to this state, shall, in regard to property acquired in this state during marriage, be regulated by the laws of this state." (96)

Married women may apply to court for trading purposes.

47 "Any married woman within this state may, with the consent of and joined by her husband, apply to the district court of the county in which she may be a bona fide resident for judgment or order of the said court removing her disabilities of coverture and declaring her feme sole for mercantile and trading purposes." (97).

Contents of Petition.

48 "Said application shall be in the form of a petition in writing addressed to said court, setting out the cause or causes which make it desirable or advantageous to said married woman to be so declared feme sole." (98).

Hearing of petition.

49 "Upon the filing of said petition same shall be docketed as in other cases, and at any time thereafter, the district court may, in term, take up and hear said petition and evidence in regard thereto." (99).

Decree declaring married women feme sole for mercantile purposes; effect of decree.

50 "If upon a hearing of said petition, and evidence relating thereto, it should appear to the court that it would be to the interest and advantage of the said married woman so applying, then said court shall enter its order or decree declaring said married

women feme sole for mercantile or trading purposes, and thereafter the said married woman may, in her own name, contract and be contracted with, sue and be sued, and all of her separate property not exempt from execution under the exemption laws of Texas, shall thereafter be subject to her debts and liable under execution therefor, and her contracts and obligations shall be as binding on her as if she were a feme sole.

"Provided however, that no married woman shall convey or encumber her separate property except as now provided by law." (1a).

Divorce.

Marriage may be annulled when.

- 51 "The District Court shall have power to hear and determine suit for the dissolution of marriage, where the causes therefor shall be natural or incurable impotency of body at the time of entering into the marriage contract, or any other impediment that renders such contract void, and shall have power and authority to decree the marriage to be null and void." (2a).

Divorce may be granted in what cases.

- 52 "A divorce by separation from the bonds of matrimony may be decreed in the following cases:

1. Where either the husband or wife is guilty of excesses, cruel treatment or outrages toward the other, if such ill treatment is of such a nature as to render their living together insupportable.

2. In favor of the husband, where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board for the space of three years with the intention of abandonment.

3. In favor of the wife, where the husband shall have left her for three years with intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman.

4. In favor of either husband or wife, when the other shall have been convicted, after marriage, of a felony and imprisoned in the state prison; provided, that no suit for divorce shall be sustained because of the conviction of either party for felony until twelve months after final judgment of conviction, nor then if the governor shall have pardoned the convict;

"Provided that the husband has not been convicted on the testimony of the wife, nor the wife on the testimony of the husband." (3a).

Plaintiff must be a resident; suit to be filed 30 days before hearing; additional grounds for divorce.

- 53 "No suit for divorce from the bonds of matrimony shall be maintained in the courts of this state unless the petitioner for such divorce shall at the time of exhibiting his or her petition, be an actual bona fide inhabitant of the state for a period of twelve months and shall have resided in the county where the suit is filed six months next preceding the filing of the suit;

"Provided, that such suit shall not be heard or divorce granted before the expiration of thirty days after the same is filed; and provided further, that neither party to a divorce suit, wherein a divorce is granted upon the ground of cruel treatment, shall marry any other person for a period of twelve months next after such

divorce is granted, but the parties so divorced may marry each other at any time upon obtaining a license as provided in article 4610;

"Provided that where a man marries the woman whom he seduces to escape penalties of the law punishing for seduction, the man shall not be entitled to a divorce for any cause within three years after such marriage;

"Provided that this Act shall not apply to any case where either the husband or wife is insane."

"Provided further that in addition to the grounds for divorce now provided by statute, that where any husband and wife have lived apart without co-habitation for as long as ten years, the same shall be sufficient grounds for divorce." (4a).

Husband and wife competent witnesses.

- 54 "In all suits for divorce from the bonds of matrimony, the defendant shall not be compelled to answer upon oath, nor shall the petition be taken as confessed for want of answer, but the decree of the court shall be rendered upon full and satisfactory evidence, upon the verdict of a jury, if a jury shall have been demanded by either party, and if not, upon the judgment of the court affirming the material facts, alleged in the petition.

"In all such suits and proceedings the husband and the wife shall be competent witnesses for and against each other, but neither party shall be compelled to testify as to any matter that will criminate himself or herself; and where the husband or wife testifies, the court or jury trying the case shall determine the credibility of such witnesses, and the weight to be given such testimony; but no divorce shall be granted upon the evidence of either husband or wife, if there be any collusion between them. (5a).

Division of property.

- 55 "The court pronouncing a decree of divorce from the bonds of matrimony shall also decree and order a division of the estate of the parties in such a way as to the court, shall seem just and right having due regard to the rights of each party and their children if any; provided, however, that nothing herein contained shall be construed to compel either party to divest himself or herself of the title to real estate." (6a).

Condonation, connivance and collusion.

- 56 "In any suit for divorce for the cause of adultery, if it shall be proved that the complainant has been guilty of the like crime or has admitted the defendant into conjugal society or embraces after he or she knew the criminal fact, or that the complainant, if the husband, connived at his wife's prostitution, or exposed her to lewd company, whereby she became ensnared to the crime aforesaid, it shall be a good defense and a perpetual bar against said suit;

"Or if it appears that the adultery complained of is occasioned by collusion of the parties, and done with intention to procure a divorce, or where both parties shall be guilty of adultery then no divorce shall be granted." (7a).

Legitimacy of children; parties may marry again.

- 57 "A divorce from the bonds of matrimony shall not in any wise effect the legitimacy of the children thereof; and either party may after the dissolution of the marriage, marry again." (8a).

Debts and alienations after suit filed.

"On and after the day on which the action for divorce shall be brought, it shall not be lawful for the husband to contract any debts on account of the community, nor to dispose of the lands belonging to the same; and any alienation made by him after that time shall be null and void, if it be proved to the satisfaction of the court that such alienation was made with a fraudulent view of injuring the rights of the wife." (9a).

Inventory and appraisement; injunction.

- 58 "At any time during a suit for divorce the wife, may, for the preservation of her rights, require an inventory and an appraisement to be made of both real and personal estate which are in the possession of the husband, and an injunction restraining him from disposing of any part thereof in any manner." (10a).

Temporary orders.

- 59 "Pending any suit for a divorce the court, or the judge thereof, may make such temporary orders respecting the property and parties as shall be deemed necessary and equitable." (11a).

Alimony.

- 60 "If the wife, whether complaintant or defendant, has not a sufficient income for her maintenance during the pendency of the suit for a divorce the judge may, either in term time or in vacation, after due notice, allow her a sum for her support in proportion to the means of the husband, until a final decree shall be made in the case." (12a).

Custody of children.

- 61 "The court aforesaid shall have power, in all cases of separation between man and wife, to give the custody and education of the children to either father or mother, as to the said court shall seem right and proper, having regard to the prudence and ability of the parents, and the age and sex of the child or children, to be determined and decided on the petition of either party; and in the meantime to issue any injunction or make any order that the safety and well being of any such children may require." (13a)

Costs.

- 62 "The court may award costs to the party in whose behalf the sentence or decree shall pass, or that each party shall pay his or her own costs, as to the court shall appear reasonable."

Acknowledgement of married woman.

- 63 "No acknowledgement of a married woman to any conveyance or other instrument purporting to be executed by her shall be taken, unless she has had the same shown to her, and then and there fully explained by the officer taking the acknowledgment, on an examination privily and apart from her husband; nor shall he certify to the same, unless she thereupon acknowledges to such officer that the same is her act and deed, that she had willingly signed the same, and that she wishes not to retract it." (14a).

Limitation shall not run against married women.

- 64 "If a person entitled to bring any action other than those mentioned in chapter one of this title (87) be at the time the cause of action accuses, either—(among others)

(2) A married woman;

Or—"the time of such disability shall not be deemed a portion of the time limited for the commencement of the action; and

such person shall have the same time after the removal of his disability that is allowed to others by the provisions of this title. (87)." (15a).

Above article applied to personal actions. (Author).

Runs against married women on lands.

65 "If a person entitled to commence suit for the recovery of real property, or to make any defense founded on the title thereto, by the time such title shall first descend or the adverse possession commence—

(1) Under the age of twenty-one years; or

(2) Of unsound mind; or

(3) A person imprisoned; the time during which such disability shall continue shall not be deemed any portion of the time limited for the commencement of such suit, or the making of such defense; and such person shall have the same time after the removal of his disability that is allowed to others by the provisions of this chapter (1).

"Provided, that limitation shall not begin to run against married women until they arrive at the age of twenty-one years;

"And further, that their disability shall continue one year from and after July 29, 1895, and that they shall have thereafter the same time allowed others by the provisions hereof; and further, that this article shall in no way affect suits then pending, and all such suits shall be tried and disposed of under the law then in force." (16a).

Suits for wife's separate property.

66 "The husband may sue either alone or jointly with his wife for the recovery of any separate property of the wife; and, in case he fail or neglect so to do, she may, by the authority of the court, sue for such property in her own name." (17a).

Suits for necessities to wife.

67 "The husband and wife shall be jointly sued for all debts contracted by the wife for necessities furnished herself or children and for all expenses which may have been incurred by the wife for the benefit of her separate property." (18a).

Suit for wife's debts.

68 "The husband and wife shall be jointly sued for all separate debts and demands against the wife, but, in such case, no personal judgment shall be rendered against the husband." (19a).

Venue. Where suit to be filed against married woman.

69 "Where the defendant is a married woman in which case she may be sued in the county in which her husband has his domicile." (20a).

Married women may be directors, etc., in Cemetery Association.

70 "The directors and officers of any corporation created in pursuance of this chapter (23 Title 25) shall be chosen under and in accordance with the provisions of this title (25), except that married women may be directors and officers in such corporations, and may perform any duties and execute any deed or contract appertaining to the duties of the office so held, without the concurrence of their husbands." (21a).

Married women two years in which to appeal to County Court by Certiorari.

71 "Any person interested in the estate of a decedent or ward

may have the proceedings of the county court therein revised and corrected at any time within two years after such proceedings were had and not afterwards; provided, that persons non compos mentis, infants and feme coverts shall have two years after the removal of their respective disabilities within which to apply for such revision and correction." (22a).

Surviving wife has same rights to community control after death of husband, as is provided, that husband has.

- 72 "The wife may retain the exclusive management, control and disposition of the community property of herself and deceased or insane husband in the same manner and subject to the same rights, rules and regulations as provided in the case of the husband, and until she shall in the event of the death of her husband, marry again." (23a).

(The provisions for the control of the husband in the community survivorship are—)

Community property liable for community debts.

- 73 "The community property of the husband and wife, except such as is exempt from forced sale, shall be liable for all the debts contracted during marriage. And, in the settlement of such community estates, it shall be the duty of the survivor executor or administrator to keep a separate and distinct account of all the community debts allowed or paid in the settlement of such estates." (24a).

Administration not required when.

- 74 "Where the husband or wife dies intestate, or becomes insane, having no child or children, and no separate property, the common property passes to the survivor, charged with the debts of the community; and no administration thereon or guardianship of the estate of the insane husband or wife shall be necessary." (25a)

Where there is child, survivor holds subject to and etc.

- 75 "Where the wife dies or becomes insane, leaving a surviving husband and child, or children, the husband shall have the exclusive management, control and disposition of the community property in the same manner as during her life time, or sanity; and it shall not be necessary that the insane wife shall join in conveyances of such property, or her privy examination and acknowledgement be taken to such conveyances, subject, however to the provisions of this chapter." (26a).

Application for community administration by husband.

- 76 "The husband shall, within four years after the death of the wife or her being declared insane, as provided by law, when there is a child, or children, file a written application in the county court of the proper county, stating:

1. The death of his wife, or that she has been declared insane by a court of competent jurisdiction, and the time and place of her death or of such declaration.

2. That she left a child or children, giving the names, sex, residence and age of each child.

3. That there is a community estate between the deceased or insane wife and himself.

4. Such facts as show the jurisdiction of the court over the estate.

5. Asking for the appointment of appraisers, to appraise such estate. (27a).

Court shall appoint appraisers.

- 77 "Upon the filing of such application, the county judge shall, without citation and either in term time or vacation, by order entered upon the minutes of the court, appoint appraisers to appraise such estate as in other administrations." (28a).

Inventory, appraisement and list of indebtedness sworn to and returned.

- 78 "It shall be the duty of the surviving husband or wife (of community estates) with the assistance of any two of the appraisers, to make out a full, fair and complete inventory and appraisement of such community estate; and the survivor shall attach thereto a list of all community debts due the estate, and shall also attach thereto a list of all indebtedness due by said community estate to other parties, giving the amount of each debt and the name of the party or parties to whom it is due, and his or their postoffice address; and such inventory, list of claims, and list of indebtedness, of said community estate, shall be sworn to by said survivor; and the inventory, appraisement and list of claims due said community estate shall be sworn to by said appraisers; and said inventory, appraisement, list of claims due said estate, and list of indebtedness due by said estate, shall be returned to the court within twenty days from the date of the order appointing appraisers in like manner as other administrations." (29a).

Bond of survivor.

- 79 "The surviving husband shall, at the time he returns the inventory, appraisement and list of claims, present to the court his bond with two or more good and sufficient sureties, payable to and to be approved by the county judge, in a sum equal to the whole of the value of such community estate as shown by the appraisement, conditioned that he will faithfully administer such community estate, and pay over one-half the surplus thereof after the payment of the debts with which the whole of such property is properly chargeable, to such person or persons as shall be entitled to receive the same." (31a).

Action of court on inventory, etc.

- 80 "When any such inventory, appraisement, list of claims and bond are returned to the county judge, he shall either in term time or in vacation, examine the same and approve or disapprove them by an order to that effect entered upon the minutes of the court, and, when approved, the same shall be recorded upon the minutes of the court, and the order approving the same shall also authorize such survivor to control, manage and dispose of such community property in accordance with the provisions of this chapter." (32a).

After order of court survivor has control, etc.

- 81 "When the order mentioned in the preceding article has been entered, such survivor, without any further action in the county court, shall have the right to control, manage and dispose of such community property, real or personal, in such manner as may seem best for the interest of the estate and of suing and being sued with regard to the same, in the same manner as during the life time of the deceased;

"And a certified copy of the order of the court mentioned in the preceding article shall be evidence of the qualifications and right of such survivor." (33a).

Survivor shall keep an account of debts and expenses.

- 82 "The survivor shall keep a fair and full account and statement of all community debts and expenses paid by him, and of the disposition made of such community property; and upon final partition of said estate, shall account to the legal heirs of the deceased for their interest in such estate, and the increase and profits of the same, after deducting therefrom all community debts, unavoidable losses, necessary and reasonable expenses, and a reasonable commission for the management of the same." (34a).

New appraisement and bond may be required.

- 83 "Any person interested in such community estate may cause a new appraisement to be made of the same, or a new bond may be required of the survivor for the same causes and in like manner as provided in other administrations." (35a).

Duty of survivor to pay debts.

- 84 "It shall be the duty of the survivor to pay all just and legal community debts as soon as practicable, and according to the classification and in the order prescribed for the payment of debts in other administrations." (3a).

Meaning of word "Survivor."

- 85 "The use of the words, "survivor," or "surviving" in the above and foregoing articles of this chapter, where no other designation is given, shall be held to apply as well to a sane person representing an insane person." (37a).

Rights of wife when she marries again.

- 86 { "Upon the marriage of the surviving wife, she shall cease to have such control and management of said estate or the right to dispose of the same; and said estate shall be subject to administration as in other cases of deceased persons' estates." (38a).

Recovery of insane spouse stops action hereunder.

- 87 "Whenever such insane husband or wife shall have recovered sanity, then all action hereunder shall cease, and a report shall be made under oath of all transactions had and done under said proceedings; and said report shall be filed and recorded in the court where such proceedings were had, and with the other papers of the case." (39a).

Duty of guardians in such cases.

- 88 "Persons now acting as guardians of the estate of persons of unsound mind shall turn over the estates of their wards, where the wards shall be married persons, upon the qualifications of the sane spouse, as provided in this chapter." (40a).

Where intestate leaves wife.

- 89 "Where any person having title to any estate of inheritance real, personal or mixed, shall die intestate as to such estate, and shall leave a surviving husband or wife, the estate of such intestate shall descend and pass as follows:

- 91 1. If the deceased have a child or children, or their descendants, the surviving husband or wife shall take one-third of the personal estate, and the balance of such personal estate shall go to the child or children of the deceased and their descendants. The surviving husband or wife shall also be entitled to an estate for life, in one-third of the land of the intestate, with remainder to the child or children of the intestate and their descendants."

2. If the deceased have no child or children, or their descendants, then the surviving husband or wife shall be entitled to all

the personal estate, and to one-half of the lands of the intestate without remainder to any person, and the other half shall pass and be inherited according to the rules of descent and distribution; provided however, that if the deceased have neither surviving father nor mother, nor surviving brothers and sisters, or their descendants, then the surviving husband of wife shall be entitled to the whole of the estate of such intestate." (41a).

Conveyance of the separate lands of wife how made:

92 "The husband and wife shall join in the conveyance of real estate the separate property of the wife; and no such conveyance shall take effect until the same shall have been acknowledged by her privily and apart from her husband before some officer authorized by law to take acknowledgments to deeds for the purpose of being recorded and certified to in the mode pointed out in Articles 6802 and 6805. (See Art. 4621.)" (41ae).

Charter must be subscribed and acknowledged:

93 "The Charter of an intended corporation must be subscribed by three or more persons, two of whom at least must be citizens of this state, and must be acknowledged by them before an officer duly authorized to take acknowledgement of deeds; provided that all charters for the purposes named in clauses two and three of article 1121 of this chapter and title may be subscribed by married women, who may also be stockholders, officers and directors thereof; and their acts, contracts and deeds shall be as binding and effective for all the purposes of said corporation as if they were males; and the joinder and consent of their husbands and privy examination separate and apart from them shall not be required." (41af).

Clauses two and three of article 1121 referred to in above article reads:

94 "2. The support of any benevolent, charitable, educational or missionary undertaking."

"3. The support of any literary and scientific undertaking; the maintenance of a library or promotion of painting, music or other fine arts.

Who are minors in females:

"Male persons under twenty-one years of age, and females under twenty-one years of age who have never been married, are minors." (41ag).

Guardianship of person of unsound mind:

95 "In the case of a person of unsound mind, or an habitual drunkard, the nearest of kin to such person, who is not disqualified, shall be entitled to the guardianship; and, where two or more are equally entitled, the guardianship shall be given to one or the other, according to circumstances, taking into consideration the interest of the ward alone. If such ward have a husband or wife who is not disqualified, such husband or wife shall be entitled to the guardianship in preference to any other person." (41aa).

Bond as married woman as guardian.

96 "Where a married woman may be appointed guardian, she may, jointly with her husband, or without her husband, if he be absent from his state or refuse to join in the bond with her, execute such bond as guardian as the law requires, and acknowledge the same before any officer authorized by law to take acknowl-

edgements of married women to written instruments; and such bond shall bind her estate in the same manner as if she were unmarried, but shall not bind her husband as surety unless he sign and be approved as such." (41ab)

Bond executed by minor mother valid:

- 97 "A bond executed by the father or mother of a minor as guardian of such minor, when such father or mother is under twenty-one years of age, shall be as valid as if he or she were of full age." (41ac).

Persons of unsound mind or habitual drunkards wife may be guardian:

- 98 "If the person committed to guardianship is married, the husband or wife of such person, as the case may be, shall be entitled first in order to the guardianship." (41ad).

When guardianship shall be settled:

- 99 "When the ward dies, or, if a minor arrives at the age of twenty-one years, or, if a female, marries, or if a person of unsound mind or habitual drunkard, is restored and discharged from guardianship, the guardianship shall be immediately settled and closed and the guardian discharged, as provided in the following articles of this chapter." (41ah).

Husband and wife may be jointly appointed as guardian:

- 100 "Only one guardian can be appointed of the person or estate; but one person may be appointed guardian of the person, and another of the estate, whenever the court shall be satisfied that it will be for the advantage of the ward to do so. Nothing in this article shall be held to prohibit the joint appointment of husband and wife." (41ai).

Marriage contract when valid:

- 101 "No covenant or agreement made in consideration of marriage shall be good against a purchaser for a valuable consideration, or any creditor not having notice thereof, unless such covenant or agreement shall be duly acknowledged or proven and recorded in manner and form as provided by law for deeds and other conveyances." (41aj).

Recorder shall record marriage contracts, etc.:

- 101 "Each recorder shall also record in books to be provided for that purpose all marriage contracts and powers of attorney, and all official bonds required to be recorded in his office, and all other instruments of writing authorized or required to be recorded in his office, which shall be proved or acknowledged according to law, and delivered to him for record." (41ak).

Marriage contract to be recorded:

- 102 "When the wife by a marriage contract may reserve to herself any property or rights to property, whether such rights shall be in esse or expectancy, for such reservation to be valid as to subsequent purchasers or creditors of her husband, the said contract must be acknowledged by her husband or proved at least by one witness, and recorded in the clerk's office of the county court of the county in which said married parties may reside." (41al).

Property of married women to be registered:

- 103 "All property, real and personal, which may be owned or claimed at the time of marriage by any woman, or which she may acquire after marriage by gift, devise or descent, shall be registered as herein directed." (41am).

104 "Upon the dissolution of the marriage relation by death, all property belonging to the community estate of the husband and wife shall go to the survivor if there be no child or children of the deceased or their descendants; but if there be a child or children of the deceased, or descendants of such child or children, then the survivor shall be entitled to one-half of said property, and the other half shall pass to such child or children, or their descendants." (42a).

Illegitimate children and issue of void marriages:

105 "Where a man, having by a woman a child or children, shall afterward intermarry with such woman, such child or children, if recognized by him, shall thereby be legitimated and made capable of inheriting his estate. The issue also of marriages deemed null in law shall nevertheless be legitimate." (43a).

Bastards inherit from mother:

106 "Bastards shall be capable of inheriting from and through their mother, and of transmitting estates, and shall also be entitled to distributive shares of the personal estates of any of their kindred on the part of their mother, in like manner as if they had been lawfully begotten of such mother." (44a).

Who are disqualified from being executors:

107 "Letters testamentary or of administration shall not be granted to any person who is under twenty-one years of age, or of unsound mind; provided, however, that such letters may be granted to a surviving husband or wife who may be under twenty-one years of age." (45a).

Order in which letters shall be granted:

108 "Letters testamentary or of administration shall be granted to persons who are qualified to act, in the following order:

1. To the person named as executor in the will of the deceased.

2. To the surviving husband or wife, and etc.

Certain persons entitled to letters may waive right:

109 "The surviving husband or wife, or, if there be no such survivor, the heirs, or any one of the heirs, of the deceased, to the exclusion of any person not equally entitled, may, in open court, or by power of attorney, duly authenticated and filed with the Clerk of the county court of the county having jurisdiction of the estate, renounce his right to the administration in favor of some other qualified person, and thereupon the court may grant letters to such other person." (46a).

Bond of married women:

110 "When a married woman may be appointed executrix or administratrix, she may, jointly with her husband or without her husband, if he be absent from the state, or insane, or refuses to join with her, execute such bond as the law requires and acknowledge the same before the county judge, county clerk or any notary public of the county where the will was proved or letters were granted; and such bond shall bind her separate estate in the same manner as if she were unmarried, but shall not bind her husband as surety unless he sign and be approved as such." (47a).

Bond of husband or wife who is a minor:

111 "When a surviving husband or wife under twenty-one years of age shall wish to accept and qualify as executor or executrix, or administrator or administratrix, he or she may execute such bonds

as the law requires and acknowledge the same before the county judge, county clerk or any notary public of the county in which the will was proved or letters or administration were granted, and such bonds shall be as valid as if he or she were of lawful age." (48a).

Allowance to widow and minor children to be made when:

- 112 "At the first regular term of the court after the original grant of letters testamentary or of administration or at any subsequent term thereafter, within twelve months after the grant of such original letters, it shall be the duty of the court to fix the amount of an allowance for the support of the widow and minor children of the deceased." (49a).

Amount of allowance.

- 113 "Such allowance shall be of an amount sufficient for the maintenance of such widow and minor children for the term of one year from the time of the death of the testator or intestate, and such allowance to be fixed with regard to the facts existing during the first year after the death of such testator or intestate; provided, that in no case shall such allowance exceed one thousand dollars." (50a).

Allowance shall not be made when:

- 114 "No such allowance shall be made for the widow when she has separate property adequate to her maintenance; nor shall such allowance be made for the minor children when they have property in their own right adequate to their maintenance." (51a).

To whom allowance shall be paid:

- 115 "The executor or administrator shall pay such allowance:
1. To the widow, if there be one, for the use of herself and the minor children, if such children be hers.
 2. If the widow is not the mother of such minor children, or or some of them, the portion of such allowance necessary for the support of such minor child or children of which she is not the mother, shall be paid to the guardian or guardians of such minor child or children.
 3. If there be no widow, the allowance to the minor child or children shall be paid to the guardian or guardians of such minor child or children." (52a).

Widow or guardian may take property for allowance:

- 116 "The widow, or the guardian of the minor children, as the case may be, shall have the right to take in payment of such allowance or any part thereof, any of the personal property of the estate at its appraised value as shown by the appraisalment returns." (53a).

Sale shall be ordered to pay allowance when:

- 117 "If there be no personal effects of the deceased that the widow or guardian is willing to take for such allowance, or not sufficiency of them, and if there be no funds in the hands of such executor or administrator to pay such allowance, or any part thereof, then it shall be the duty of the county judge, so soon as the inventory and appraisalment and list of claims are returned and approved, to order a sale of so much of the estate for cash as will be sufficient to raise the amount of such allowance, or a part thereof, as the case may require." (54a).

Allowance to be paid in preference to what debt:

- 118 "The allowance made for the support of the widow and minor children of the deceased shall be paid in preference to all other debts or charges against the estate, except the funeral expenses and expenses of last sickness of deceased, which claims shall be first paid, if presented within the time prescribed by law entitling them to such preference." (55a).

Allowance apportioned how:

- 119 "The allowance provided for in this chapter shall be paid as follows:

1. If there be both widow and minor child or children, the widow shall be entitled to one-half and the minor child or children to the other half.

2. If there be a widow and no minor child or children, the widow shall receive the whole.

3. If there be a minor child or children and no widow, such minor child or children shall receive the whole." 56a).

Court to set aside exempt property to widow, etc.:

- 120 "At the first term of the court after an inventory, appraisal and list of claims have been returned, it shall be the duty of the court by an order entered upon the minutes, to set apart for the use and benefit of the widow and minor children and unmarried daughters remaining with the family of the deceased, all such property of the estate as may be exempt from execution or forced sale by the constitution and laws of the state, with the exception of any exemption of one year's supply of provisions." (57a).

Allowance in lieu of exempt articles to widow:

- 121 "In case there should not be among the effects of the deceased all or any of the specific articles so exempted it shall be the duty of the court to make a reasonable allowance in lieu thereof, to be paid such widow and children, or such of them as there may be as hereinafter directed." (58a).

Such allowance not to exceed what amount:

- 122 "The allowance in lieu of a homestead shall in no case exceed five thousand dollars, and the allowance for other exempted property shall in no case exceed five hundred dollars, exclusive of the allowance provided in preceding chapter." (59a).

To whom the exempt property shall be delivered:

- 123 "The exempted property set apart to the widow and children shall be delivered by the executor or administrator without delay as follows:

1. If there be a widow and no children, or if the children be the children of the widow, the whole of such property shall be delivered to the widow.

2. If there be children and no widow, such property shall be delivered to such children if they be of lawful age, or to their guardian if they be minors, or the same may be equally divided among them, except the homestead.

3. If there be children of the deceased of whom the widow is not the mother, the share of such children in such exempted property, except the homestead, shall be delivered to such children if they be of lawful age or to their guardian if they be minors, or may be equally divided between them.

4. In all cases, the homestead shall be delivered to the widow,

if there be one, and if there be no widow, to the guardian of the minor children and unmarried daughters, if any, living with the family." (60a).

Allowance shall be paid how:

- 124 "The allowances made in lieu of the exempted property shall be paid either in money out of the funds of the estate that may come to the hands of the executor or administrator, or in any property of the deceased that such widow or children if they be of lawful age, or their guardian if they be minors, may choose to take at the appraisement, or a part thereof, or both, as they may select." (61a).

To whom allowance shall be paid:

- 125 "Such allowance shall be paid by the executor or administrator in the following manner:

1. If there be a widow and no children, the whole to be paid to such widow.

2. If there be children and no widow, the whole to be paid to such children if they be of lawful age, or to their guardian if they be minors, or to be equally divided among them.

3. If there be both widow and children, the whole to be paid to such widow if she be the mother of such children, but, if she be not the mother of such children, one-half to be paid to such widow and the other half to such children if they be of lawful age, or to their guardian if they be minors, or to be equally divided among them." (62a).

Sale to raise allowance when:

- 126 "If there be no property of the deceased that such widow or children are willing to take for such allowance or not a sufficiency, and there be no funds, or not sufficient funds of the estate in the hands of such executor or administrator to pay such allowance, or any part thereof, it shall be the duty of the county judge, on the application in writing of such widow and children to order a sale of so much of the estate for cash as will be sufficient to raise the amount of such allowance, or a part thereof, as the case may require." (63a)

Property on which certain acknowledged liens exist not to be set aside:

- 127 "No property upon which liens have been given by the husband and wife, acknowledged in a manner legally binding upon the wife to secure creditors or upon which a vendors lien exists, shall be set aside to the widow or children as exempted property or appropriated to make up the allowance made in lieu of exempted property, until the debts secured by such liens are first discharged." (64a).

When estate proves to be solvent:

- 128 "If upon a final settlement of such estate, it shall appear that the same is solvent, the exempted property, except the homestead which has been set apart to the widow or children or both, together with any allowance that has been received by them in lieu thereof, shall be subject to partition and distribution among the heirs and distributees of such estate in like manner as the other property of the estate" (65a).

When estate proves to be insolvent:

- 129 "Should the estate, upon final settlement, prove to be insolvent the title of the widow and children to all the property and al-

lowances set apart or paid to them, under the provisions of this and of the preceding chapter, shall be absolute, and shall not be taken for any of the debts of the estate, except as hereinafter provided." (66a).

Exempt property not to be considered in ascertaining solvency:

- 130 "In ascertaining whether an estate is solvent or insolvent the exempt property set apart to the widow or children, or the allowance in lieu thereof, and the allowance provided for in the preceding chapter shall not be estimated or considered as assets of the estate." (67a).

When homestead shall not be partitioned:

- 131 "The homestead shall not be partitioned among the heirs of the deceased during the life time of the widow, or so long as she may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted under the order of the proper court having jurisdiction to use and occupy the same." (68a).

When homestead may be partitioned:

- 132 "When the widow dies or sells her interest in the homestead or elects to no longer use or occupy the same as a homestead, and when the proper court no longer permits the guardian of the minor children to use and occupy the same as a homestead, it may be partitioned among the respective owners thereof in like manner as other property in common." (69a).

No distinction between community separate homestead:

- 133 "The homestead rights of the widow and children of deceased are the same whether the homestead be the separate property of the deceased or community property between the widow and the deceased, and the respective interests of such widow and children shall be the same in one case as in the other." (70a).

Homestead not liable for debts except:

- 134 "The homestead shall not be liable for the payment of any of the debts of the estate, except for the purchase money thereof, the taxes due thereon or for work and material used in constructing improvements thereon; and in this last case only when the work and material are contracted for in writing, with the consent of the wife, given in the same manner as required in making a sale and conveyance of the homestead." (71a).

Other exempt property liable for what debts:

- 135 "The exempted property, other than the homestead, or any allowance made in lieu thereof, shall be liable for the payment of the funeral expenses and the expenses of last sickness of deceased, when presented within the time prescribed therefor; but such property shall not be liable for any other debts of the estate." (72a).

Homestead rights of surviving husband:

- 136 "On the death of the wife, leaving a husband surviving, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among the heirs of the deceased during the lifetime of such surviving husband, or so long as he may elect to use or occupy the same as a homestead." (73a).

Surviving husband or wife may have partition of the community property:

- 137 "When any husband or wife shall die leaving any common property, the survivor may, at any time after letters testamentary or of administration have been granted, and an inventory, appraisal and list of the claims of the estate have been returned, make application in writing to the court which granted such letters for a partition of such community property, which application shall be acted upon at some regular term of the court." (74a).

Action of court and bond in such case:

- 138 "If, upon the hearing of such application, there appear to be any such common property, and such surviving husband or wife shall execute and deliver to the county judge an obligation with two or more good and sufficient sureties, payable to and approved by the said county judge, for an amount equal to the value of his or her interest in such common property, conditioned for the payment of one-half of all debts existing against such common property, then the county judge shall proceed to make a partition of said common property into two equal moieties, one to be delivered to the survivor, and the other to the executor or administrator of the deceased; and all the provisions of this chapter respecting the partition and distribution of estates shall apply to any partition made under the provisions of this article, so far as the same may be applicable." (75a)

Husband and wife not disqualified except:

- 139 "The husband or wife of a party to a suit or proceeding or who is interested in the issue to be tried, shall not be incompetent to testify therein, except as to confidential communications between such husband and wife." (76a).

Conveyance of homestead how made. Consent of wife:

- 140 "The homestead of the family shall not be sold and conveyed by the owner if a married man, without the consent of the wife. Such consent shall be evidenced by the wife joining in the conveyance, and signing her name thereto, and by her separate acknowledgment thereof taken and certified to before the proper officer, and in the mode pointed out in articles 6802 and 6805" (77a).

May present and prove schedule for record:

- 141 "Each woman now married, or who may be hereafter married, may present to any officer authorized by law to take acknowledgments or proof of instruments for record, a schedule particularly describing all the property, real and personal, which she now owns and possesses, or which she may own and possess at the time of her marriage, and make her statement under oath before such officer that the property described in the schedule is her separate property; and upon such statement being made such officer shall annex to the schedule a certificate of the fact under his hand and seal of office; which certificate shall be sufficient evidence for the recorder of any county to record the same." (78a).

Property acquired after marriage:

- 142 "Each married woman upon coming into possession of any property, real or personal, to which she had claim at the time of her marriage, or which she may afterward acquire by gift, devise

or descent, shall have the same recorded in the same manner as prescribed in the foregoing article." (79a).

In what county registration must be made:

- 143 "The registration of the wife's separate property herein provided for, if real estate, shall be made in the county or counties in which the same, or a part thereof is situated; if personal property, in the county or counties where the same remains; and in case such personal property be removed out of the county, the registration must also be made in the county to which the property is removed within four months after such removal." (80a).

Conclusiveness to subsequent creditors:

- 144 "The registration of any schedule of a wife's separate property, made in accordance with the provisions of this chapter, shall, be conclusive as against all subsequent creditors of and purchasers from her husband." (81a).

Redemption from municipal tax sale:

"If the real estate of an infant, feme covert, or lunatic be sold under this title, (Title 22 relating to Cities and Towns) the same may be redeemed at any time within one year after such disability be removed." (82a).

Trust Companies may be created with power to execute trusts for married women with reference to separate estate.

- 145 "Corporations may be created under articles 380 and 381 (Title 14 Chap. 2) for the purpose of establishing a bank of deposit or discount, or both of deposit and discount, with the powers set out in article 376, and any one or more of the following purposes:

5. To accept trusts from, and execute trusts for, married women, in respect to their separate property, and to be their agent in the management of such property, or to transact any business in relation thereto." (83a).

Deposit in State Savings Bank by female thereafter married:

- 146 "Whenever any deposit shall be made with any savings bank by or in the name of any person being a minor or a female, being or thereafter becoming a married woman, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all persons whomsoever, except creditors, and shall be paid, together with the interest thereon, upon production of, and proper entry in, the pass book at the time of such payment, and in accordance with the by-laws of the corporation, to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor or female shall be a valid and sufficient release and discharge for such deposit, or any part thereof to the corporation." (84a).

Property of wife, how rendered for taxation:

- 147 "All property shall be listed or rendered in the manner following:

4. Wife—The property of a wife, by her husband, if of sound mind; if not by herself." (85a).

Female may make will:

- 148 "Every person aged twenty-one years or upward, or who may be or may have been lawfully married, being of sound mind, shall have power to make a last will and testament, under the rules and limitations prescribed by law." (86a).

Power of wife under, over husband's separate estate:

- 149 "The husband or wife may, by last will and testament, give the survivor of the marriage the power to keep his or her separate property together, until each of the several heirs shall become of lawful age, and to manage and control the same under the provisions of law relating to community property, and such other restrictions as may be imposed by such will; provided, the surviving husband or wife is the father or mother, as the case may be, of the minor heirs; provided, further, that any child or heir entitled to any part of said property shall, at any time upon becoming of age, be entitled to receive his distributive portion of said estate." (87a).

Wife's action for wrongful death, of other:

- 150 "The action shall be for the sole and exclusive benefit of the surviving husband, wife, children and parents of the person whose death shall have been caused (by acts denounced by Art. 4694) and the amount recovered therein shall not be liable for the debts of the deceased." (88a).

- 151 (Art. 2977 provides that booths shall be safeguarded by guard rails in all elections, and that the same shall have three sides closed and the front side open; Art 3019 prohibits loitering or electioneering within 100 feet of the booths when the polls are open, special constables are provided for to enforce this law).

Man must vote at place where his wife resides if living with her. (Was this in honor of the wife?)

- 152 "Art. 2941 relating to elections, provide that electors, must vote at their place of "residence." The residence is defined thus: "The "residence" of a single man is where he usually sleeps at night; that of a married man is where his wife resides, or if he is permanently separated from his wife, his residence is where he sleeps at night and, etc.

Qualifications for voting; who qualified.

- 153 "Every male person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this state one year next preceding an election, and the last six months within the district or county in which he offers to vote,

Shall be deemed a qualified elector; and every male person of foreign birth, subject to none of the foregoing disqualifications, who has, not less than six months before an election in which he offers to vote declared his intention to become a citizen of the United States, in accordance with the federal naturalization laws, and shall have resided in this state one year next preceding such election and the last six months in the county in which he offers to vote, shall also be deemed a qualified voter." (89a).

And all electors shall vote in the voting and, etc.

Who not qualified, electors.

- 154 "The following classes of persons shall not be allowed to vote in this state:

1. Persons under twenty-one years of age.
2. Idiots and lunatics.
3. All paupers supported by the county.
4. All persons convicted of any felony, except those restored to full citizenship and right of suffrage, or pardoned.

5. All soldiers, marines, and seamen employed in the service of the army or navy of the United States." (90a).

Hours of labor for females. (Does not apply to the home?)

155 "No female shall be employed in any factory, mine, mill workshop, mechanical or mercantile establishment, laundry, hotel, restaurant or rooming house, theatre or moving picture show, barber shop, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, except as hereinafter provided, for more than nine hours in any calendar day, nor more than fifty-four hours in any one calendar week; provided, however, that in case of extraordinary emergencies such as great public calamities, or where it becomes necessary for the protection of human life or property, longer hours may be worked, but for such time not less than double time shall be paid such female with the consent of the said female;

Provided, this act shall not apply to stenographers and pharmacists.

156 Sec. 1a. "No female shall be employed in any laundry for more than fifty-four hours in one calendar week; the hours of such employment to be so arranged as to permit the employment of such female at any time so that she shall not work more than a maximum of eleven hours during the twenty-four hours period of one day;

Provided that if a female is employed for more than nine hours in any one day she shall receive pay at rate of double her regular pay for such time as she is employed for more than nine hours per day."

157 Sec. 1b. "No female shall be employed in any factory engaged in the manufacture of cotton, woolen or worsted goods or articles of merchandise manufactured out of cotton goods for more than ten hours in any one calendar day, nor for more than sixty hours in any one calendar week." "Provided that if such female is employed for more than nine hours in any one day she shall receive pay at the rate of double her regular pay for such time as she may be employed for more than nine hours per day:"

158 Sec. 2. "Every employer owning or operating any factory, mine, mill, workshop, mechanical or mercantile establishment, laundry, hotel, restaurant or rooming house, theatre or moving picture show, barber shop, telegraph or telephone or other office, express or transportation company, the superintendent of any state institution or enterprise where females are employed, as provided by Section 1, 1a and 1b, shall provide and furnish suitable seats, to be used by such employes when not engaged in the active duties of their employment, and shall give notice to all such female employes by posting in a conspicuous place, on the premises of such employment in letters not less than one inch in height, that all such female employes will be permitted to use such seats when not so engaged."

159 Sec. 3. "Any employer, overseer, superintendent, foreman, or other agent of any such employer who shall permit any female to work in any of the places mentioned in Section 1, 1a and 1b more than the number of hours provided for in this Act during any day of the twenty-four hours, or who shall fail, neglect or refuse to so arrange the work of females employed in the said places mentioned in Sections 1, 1a and 1b so that they shall not

work more than the number of hours provided for in Sections 1, 1a and 1b of this Act, during any day of twenty-four hours or the number of hours prescribed by this Act in any one week, or who shall fail, neglect or refuse to provide suitable seats as provided in Section 2 of this Act shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction shall be fined in any sum not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars and each day of such violation and each such female employe required or permitted to work more than the time provided in the various sections of this Act shall constitute a separate offense."

"Provided, that the provisions of the law shall not apply to telegraph and telephone companies in rural districts and in cities or towns of less than 3000 inhabitants, as shown by the last Federal census."

"Provided, that the provisions of this Act shall not apply to mercantile establishments in rural districts and in cities and towns and villages of less than 3000 inhabitants."

160 Sec. 4. "If any section or provision of this Act is for any reason held unconstitutional it shall not affect nor impair nor render invalid the rest of this Act, and changing other sections to conform thereto."

Sec. 5. "All laws or parts of laws in conflict herewith, and especially Senate Bill No. 30 entitled "An Act limiting the hours of labor for females, etc., of the Acts of the Thirty-third Legislature, approved April 16, 1913," are hereby repealed.

161 Sec. 6. "The fact that the law now regulating the hours of labor for females is insufficient, and that thousands of women and girls in the State are being worked longer hours, to the great detriment of their physical, mental and moral welfare, constitutes and creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be, and the same is, hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted." (Takes effect June 20, 1915). (91a).

Corporation may be formed for the protection of females:

162 "The purpose for which private corporations may be formed are:

44. "The protection of women and children and the prevention of cruelty to animals." (92a).

Female convicts in penitentiary:

163 "All female prisoners shall be kept separate and apart from the male prisoners. Where practicable, the prison commission shall keep the female prisoners upon a separate farm, or at a separate prison, from the male prisoners, and shall provide reasonable rules and regulations for the government of the same." (93a).

Labor for female state convicts:

164 "The prison commission shall provide such labor for said female prisoners as in their judgment they can reasonably perform, but the prison physician for such female prisoners shall at any time have the authority to say whether or not the physical condition of said female prisoners is such that they can perform any physical labor; provided, that in the absence of the physician

the matron shall pass upon the physical condition of said female prisoners." (94a).

Whites and Negroes kept separate:

- 165 "The prison commission shall keep the white female prisoners separate and apart from the Negro female prisoners, and shall select and place over said female prisoners a matron or matrons whose duty it shall be to give her personal attention to the welfare of such female prisoners. The matron or matrons so employed to look after the welfare of the female prisoners shall reside at the place where female prisoners are kept." (95a).

Only married men employed as guards:

- 166 "At the place where female prisoners are kept, none but married men shall be employed as guards; and the houses for such guards and their families shall be provided by the state, in which the families of the guards shall live. And said guards shall be allowed ten dollars per month in addition to his salary in lieu of his board, said houses not to be situated further than one hundred yards from the main prison building where such female prisoners are kept." (96a).

Children of female prisoners:

- 167 "If a female prisoner be received with an infant, or if any child be born in the penitentiary, the child shall be permitted to remain with its mother until three to six years of age in the discretion of and as prescribed by the prison commission." (97a).

County female convicts:

- 168 "Female convicts shall under all circumstances be kept separate and apart from male convicts; and they shall in no case be required to do manual labor, except in the work house or when hired out as is hereinafter provided." (99a).

Dependent or delinquent girls may be committed by Juvenile court, and etc.:

- 169 "Whenever any girl between the ages of seven and eighteen years shall be brought before any juvenile court upon petition of any person in this state or the humane society or any institution of a similar purpose or character, charged with being a dependent or delinquent child as these terms are defined in the statutes of this state, the court may, if in the opinion of the judge, the girls training school is the proper place for her, commit such girl to said girls training school during her minority; provided, that no girl shall be committed to the girls training school who is feeble minded, epileptic or insane, and that any girl committed to said girls training school who is afflicted with a venereal, tubercular or other communicable disease, shall be assigned to a distinct and separate building of the institution and shall not be allowed to associate with the other wards until cured of said disease or diseases.

"No girl shall be admitted to the institution until she has been examined by the training school physician, and such physician issuing a certificate showing her exact state or condition in reference to said qualifications hereinbefore enumerated." (99a).

Conveyance to school an etc.:

- 170 "It shall be the duty of the court committing any girl to the girls training school, in addition to the commitment, to annex a carefully prepared transcript of the trial to aid the officials of the institution in better understanding and classifying the girl.

The court shall also designate some reputable woman to convey the girl to the institution. The cost of conveying any girl committed to the institution shall be paid by the county from which she is committed, provided that no compensation shall be allowed beyond the actual and necessary expenses of the party conveying and the girl conveyed." (1b).

Delinquent child defined:

- 171 "For the purposes of this chapter (Title 38 Chap. 2) the words "delinquent child" shall include any child under sixteen years of age who violates any of the laws of this state, or any city ordinance, or who is incorrigible, or who knowingly associates with thieves, vicious or immoral persons, or who knowingly visits a house of ill repute, or who knowingly patronizes or visits any place where any gambling device is, or shall be operated, or who patronizes any saloon or place where any intoxicating liquors are sold, or who wanders about the streets at night time without being on any business or occupation, or who habitually wanders about any railroad yards or tracks, or who habitually jumps on or off of any moving train, or enters any car or engine without lawful authority, or who habitually uses vile, obscene, vulgar, profane or indecent language, or who is guilty of immoral conduct in any public place.

"Any child committing any of the acts herein mentioned shall be deemed a "delinquent child," and shall be proceeded against as such in the manner hereinafter provided.

"A disposition of any child under this chapter or any evidence given in such case shall not in, any civil, criminal or other cause or proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatever, except in subsequent cases against the same child under this chapter." (2b).

Girls Training school to be established:

- 172 "That there be established and maintained at some place in the State of Texas, to be selected by persons in authority, where suitable farm lands may be secured, a school upon the cottage plan for the education and training of the dependent and delinquent girls of the state, to be known as the girls training school." (3b).

Purpose of school, duties of board; hospital:

- 173 "It shall be the purpose of this home and school to provide an institution of training for girls who, by their own misconduct or by their unfavorable surroundings, have become dependent or delinquent and need the care and attention not heretofore provided, and in the accomplishment of the purposes of this Act, the board of control shall provide wholesome and proper quarters, and exercise and diversion, and shall make provision for training in all of the useful arts and sciences to which women are adapted, to prepare them for future womanhood and independence. A proper hospital is to be provided, and instructions given therein in nursing, sanitation and hygiene." (4b).

School shall be under control of board and etc.:

- 174 "The girls training school shall be under the control and management of the state board of control for the eleemosynary institutions of this state. Should there be no such board, then the school shall be under the management of a board of control composed of five persons, one of whom shall be the superintendent

of public instruction of the state of Texas; another shall be the ranking professor of domestic economy in the College of Industrial Arts; the remaining three to be appointed by the governor, at least one of whom shall be a woman.

"One of three members to be selected by the governor shall be appointed for a term to end January 1, 1915, one other for a term to end January 1, 1917, and the third for a term to end January 1, 1919. At the expiration of each term a successor shall be appointed by the governor then in office for a term of six years. The said board is hereby empowered to select a site for the location of said school, to purchase the same and to build and equip such modern buildings on the cottage plan, as the appropriation herein provided for will permit." (5b).

Superintendent and salary and etc.:

- 175 "The board of control shall employ as superintendent of this school a woman of previous experience and training in a similar or like institution, who shall have power to appoint and discharge all subordinate officials and teachers for the school which it may be necessary to employ. The board of control shall fix the salary of the superintendent and all employees. The said board shall also have authority to remove the superintendent on account of inefficiency, incompetency, inattention to the duties of a superintendent, misconduct or malfeasance in office and the decision of said board as to such inefficiency, incompetency, inattention to the duties of a superintendent, misconduct or malfeasance shall be final." (Art. 5234f).

Dismissal or parole of inmates:

- 176 "No girl shall be dismissed or paroled until some suitable home has been found for her and only upon the written recommendation of the superintendent to the board of control, or she has become married with the consent of the authority of such institution and the superintendent, provided, that the provision of this Act shall not be construed to interfere with the governor of the state in exercising executive clemency when in his judgment it may seem best. Any girl who is paroled from the institution shall be under the supervision and guidance of the superintendent, who shall require that she shall write bi-weekly to the superintendent or matron of the school for the first six months, and monthly letters thereafter: that the person under whose care or employ the girl is placed shall write monthly letters to the superintendent or matron of the school for the first six months and semi-annually thereafter.
- 177 "The board of control, superintendent or some other employee of said training school may visit the place where the girl is living or is employed, and it shall be the duty of the person having the girl in custody to answer all questions asked by said visiting committee concerning the conduct, employment or treatment of said girl. If in the judgment of the board, it should be to the best interests of the girl that she be returned to the school, the board is hereby empowered to have her returned." (6b).

Rules and regulations:

- 178 "The superintendent, with the approval of the board of control shall make all necessary rules and regulations for the government of the training school, and shall provide that the time of the pupils is properly distributed between the school of letters and the industrial and domestic pursuits, according to the needs

of pupils and the facilities at hand. Provision shall be made for giving diplomas or certificates of proficiency for graduates from the nurses training school and any industrial school that may be established by the directors." (7b).

Expenses of members of board, etc.:

- 179 "If, at the time this bill becomes effective, there shall be no board of control and it becomes necessary for the board herein authorized to be created, to act, they shall be paid such amounts as will be necessary to cover the actual expenses incurred in the discharge of the duties as members of such board." (Art. 5234h).

Appropriations not accessible until subscriptions from cities:

- 180 "There is hereby appropriated out of the general revenue of the State of Texas, not otherwise appropriated, the sum of twenty-five thousand dollars (\$25,00.00) for the purchase of land for a site and for the erection of buildings herein provided for, provided, however, that such appropriation shall not be accessible until a like sum of \$25,000.00 shall have been subscribed and paid to said board of control, by private subscription or gifts from counties and cities, and for the purpose of securing such funds of \$25,000.00 and such other funds as they may be able to secure by private subscription or gifts from counties and cities of this state, there is hereby created the following committee, composed of five members to work in conjunction with said board of control; President Humane Society of Texas, President Federated Clubs of Texas, President Mothers Council and Parent-Teachers' Association, and two other persons to be selected by the governor.

- 181 "This committee in conjunction with the board of control of said school are hereby empowered to adopt such plans as they deem wise and expedient to be used in the securing of such funds.

"Authority is hereby granted unto the several cities and counties of this state to donate from their general funds such amounts as the proper authorities deem wise to be used in the establishment of the said school." (8b).

Texas Industrial Institute and College for Girls:

- 182 "The Industrial Institute and College located at Denton in Denton County, Texas, for the education of white girls in the arts and sciences, shall be known as the Texas Industrial Institute and College for the education of white girls of the State of Texas in the arts and sciences." (9a).

Board of regents how appointed:

- 183 "The governor shall nominate and appoint by and with the consent of the senate, seven persons to serve as a board of regents for said college, who shall serve as such for two years, and until their successors are appointed and qualified. In all cases of vacancy the appointment to fill such vacancy and the reappointment to fill the position shall, from time to time, be made by the governor as hereinbefore provided, but, if the Legislature be not in session, the governor may fill such vacancy by appointment until the next session of the Legislature, when if the senate shall not confirm the appointment, the appointment of some other person shall be made as hereinbefore provided." (10b).

Board to elect president; meeting; etc.:

- 184 "The board of regents shall have the power incident to their position and in the same and to the same extent, so far as may

be applicable, as is conferred by law on the regents, of the University of Texas. Said board of regents shall elect a president, a secretary and a treasurer, whose terms of office shall be two years. The president so selected shall convene the board of regents of said industrial institute and college to consider any business connected with the same, whenever he shall deem it expedient to do so; it shall be the duty of the secretary to record in a well bound book all of the proceedings had by said board, and he shall be paid such salary as the board may prescribe; it shall be the duty of the treasurer to receive and disburse all moneys under the direction of the board. He shall be required to give bond in such sum as may be prescribed by the board." (11b).

What may be taught in the institute:

- 185 "The board of regents shall possess all the powers necessary to accomplish and carry out the provisions of this chapter, the establishment and maintenance of a first class industrial institute and college for the education of white girls in this state in the arts and sciences, at which such girls may require a literary education, together with a knowledge of kindergarten instruction; also a knowledge of telegraphy and photography; also a knowledge of drawing, painting, designing and engraving, in their industrial application; also a knowledge of general needle-work, including dressmaking; also a knowledge of book keeping; also a thorough knowledge of scientific and practical cooking, including a chemical study of food; also a knowledge of practical house-keeping; also a knowledge of trained nursing, caring for the sick; also a knowledge of the care and culture of children; with such other practical industries as, from time to time, may be suggested by experience, or tend to promote the general object of said institute and college, to-wit: Fitting and preparing such girls for the practical industries of the age." (12b).

General duties of regents.

- 186 "The board of regents herein mentioned shall appoint a president and professor of the said industrial institute and college and such other officers as they may think proper to continue the same in successful operations, and to make such rules and regulations for the government of said officers as they may deem advisable. They shall regulate rates of tuition, together with course of discipline necessary to enforce the faithful discharge of the duties of all officers, professors and students. They shall divide the course of instruction into departments, so as to secure a thorough education and the best possible instruction in all of said industrial studies selecting careful and efficient professors in each department, and shall adopt all such rules, by-laws and regulations as they may deem necessary to carry out all the purposes and objects of said institution." (13b).

Compensation of regents:

- 187 "The board of regents shall receive such compensation as is now allowed to the board of regents for the University of Texas, to be paid out of the appropriations for this industrial institute and college." (14b).

Numbers of students apportioned to counties:

- 188 "The board of regents shall apportion to each county its quota of pupils or students, on the basis of the number of the educatable white girls in the state and several counties; and the several

superintendents of education of the several counties shall after giving notice in some newspaper of the county, and three weeks after such publication, under such regulations as the board of regents may adopt, appoint such number of white girls to such industrial institute and college as such county may be entitled to." (15b)

Board of regents to fix salary:

- 189 "The board of regents shall determine and fix the salary of each officer, employe and professor, in said industrial institute and college; provided, that the salaries of professors, in any one department shall not exceed that which is now fixed for the professors of the agricultural and mechanical college." (16b).

Elementary agriculture to be taught:

"The board of regents shall require the teaching of elementary agriculture for teachers, in the summer sessions of the college as provided in chapter 10 of this title. (Title 48)." (17b).

Teachers diplomas conferred:

- 190 "The college shall also confer teachers diplomas in such cases and under such circumstances and conditions as are prescribed in chapter 14 of this title (Title 48). (Art. 2690a)."

Rights of widows to Mexican and Confederate war pensions as well as all laws of a criminal nature strictly, are purposely omitted, as not being in the scope of the work undertaken.

Respectfully,

CHARLES CARTER,

Marshall, Texas.

February, 1916.

AUTHORITIES FOR LAWS

References to Revised Civil Statutes Texas 1911.
References to Acts Legislature Texas.

65	U. S. Const. Amd. Art. 14, Sec. 1, p. xiii-xiv R. C. S. 1911.	8a Art. 4636. 9a Art. 4637. 10a Art. 4638.
66	U. S. Const. Amd. Art. 15, Sec. 1, p. xiii-xiv R. C. S. 1911.	11a Art. 4639. 12a Art. 4640. 13a Art. 4641.
67	U. S. Const. Amd. Art. 15 Sec. 2 p. xiii-xiv R. C. S. 1911.	14a Art. 4802. 15a Art 5708. 16a Art. 5684.
68	Art. 4608.	17a Art. 1839.
69	Art. 4609.	18a Art. 1840.
70	Art. 4610.	19a Art. 1841.
71	Art. 4612.	20a Art. 1830 (Sec. 1).
72	Art. 4612.	21a Art. 1288.
73	Art. 4613.	22a Art. 733
74	Art. 4614.	23a Art. 3609.
75	Art. 4615.	24a Art. 3592.
76	Art. 4616.	25a Art. 3593.
77	Art. 4617.	26a Art. 3594.
78	Art. 4618.	27a Art. 3595.
79	Art. 4619.	28a Art. 3596.
80	Art. 4620.	29a Art. 3597.
81	Art. 4621. (Amd. 1913).	31a Art. 3598.
82	Art. 4622. (Amd. 1913).	32a Art. 3599.
83	Sec. 1, Act 34 Leg. 1915, p. 103.	35a Art. 3600. 34a Art. 3601.
84	Art. 4623.	35a Art. 3602.
85	Art. 4624. (Amd. 1913).	36a Art. 3603.
86	Art. 4625.	37a Art. 3610.
87	Art. 4626.	38a Art. 3611.
88	Art. 4627.	39a Art. 3613.
89	Sec. 1, Act Leg. 1913 p. 188.	40a Art. 3614.
90	Sec. 2, Id.	41a Art. 2462.
91	Sec. 3, Id.	41a Art. 4076.
92	Sec. 4, Id.	41ab Art. 4105.
93	Sec. 5, Id.	41ac Art. 4106.
94	Sec. 6, Id.	41ad Art. 4247.
95	Art. 4628.	41ae Art. 1114.
96	Art. 4629.	41af Art. 1123.
97	Art. 4629-a.	41ag Art. 4045.
98	Art. 4629-b.	41ah Art. 4267.
99	Art. 4629-c.	41ai Art. 4082.
1a	Art. 4629-d.	41aj Art. 6829.
2a	Art. 4630.	41ak Art. 6830.
3a	Art. 4631.	41al Art. 6843.
4a	Art. 4632.	41am Art. 6844.
5a	Art. 4433.	42a Art. 2469.
6a	Art. 4634.	43a Art. 2472.
7a	Art. 4635.	44a Art. 2473.

- | | | | |
|-----|------------|-----|-------------------------|
| 45a | Art. 3277. | 82a | Art. 962. |
| 46a | Art. 3283. | 83a | Ara. 385. |
| 47a | Art. 3314. | 84a | Art. 399. |
| 48a | Art. 3315. | 85a | Art. 5509 (4). |
| 49a | Art. 3404. | 86a | Art. 7855. |
| 50a | Art. 4305. | 87a | Art. 7872. |
| 51a | Art. 4306. | 88a | Art. 4698. |
| 52a | Art. 3409. | 89a | Art. 2939. |
| 53a | Art. 4309. | 90a | Art. 2938. |
| 54a | Art. 4310. | 91a | Acts 34th Leg. page 105 |
| 55a | Art. 3411. | | chap. 56. |
| 56a | Art. 3412. | 92a | Art. 1121 (Sub. 44). |
| 57a | Art. 3413. | 93a | Art. 6209. |
| 58a | Art. 3414. | 94a | Art. 6210. |
| 59a | Art. 3415. | 95a | Art. 6211. |
| 60a | Art. 3416. | 96a | Art. 6212. |
| 61a | Art. 3417. | 97a | Art. 6213. |
| 62a | Art. 3419. | 98a | Art. 6241. |
| 63a | Art. 3419. | 99a | Art. 2201a. |
| 64a | Art. 3420. | 1b | Art. 2201b. |
| 65a | Art. 3421. | 2b | Art. 2191. |
| 66a | Art. 3422. | 3b | Art. 5234b. |
| 67a | Art. 3423. | 4b | Art. 5234c. |
| 68a | Art. 3424. | 5b | Art. 5234d. |
| 69a | Art. 3425. | 6b | Art. 5234f. |
| 70a | Art. 3426. | 7b | Art. 5234g. |
| 71a | Art. 3427. | 8b | Art. 5234i. |
| 72a | Art. 3428. | 9b | Art. 2682. |
| 73a | Art. 3429. | 10b | Art. 2683. |
| 74a | Art. 3556. | 11b | Art. 2684. |
| 75a | Art. 3557. | 12b | Art. 2685. |
| 76a | Art. 3689. | 13b | Art. 2686. |
| 77a | Art. 1115. | 14b | Art. 2687. |
| 78a | Art. 6845. | 15b | Art. 2688. |
| 79a | Art. 6846. | 16b | Art. 2689. |
| 80a | Art. 6847. | 17b | Art. 2690. |
| 81a | Art. 6848. | | |

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